

# 11-3642-cv(L)

## 11-3962-cv(XAP)

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IN THE

### United States Court of Appeals

FOR THE SECOND CIRCUIT

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ALAN KACHALSKY, CHRISTINA NIKOLOV, JOHNNIE NANCE, ANNA MARCUCCI-NANCE,  
ERIC DETMER, SECOND AMENDMENT FOUNDATION, INC.,

*Plaintiffs-Appellants-Cross-Appellees,*

v.

COUNTY OF WESTCHESTER,

*Defendant-Appellee-Cross-Appellant,*

and

SUSAN CACACE, JEFFREY A. COHEN, ALBERT LORENZOR, ROBERT K. HOLDMAN,

*Defendants-Appellees.*

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*On Appeal from the United States District Court  
for the Southern District of New York (White Plains)*

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\*Duplicative material in this exhibit redacted.

# EXHIBIT G

THIS PAGE INTENTIONALLY LEFT BLANK

**REDACTED**

INSTRUCTIONS: Print or type in black ink only

NEW YORK  
VSE APPLICATION

COUNTY OF ISSUE

EXPIRATION DATE

DATE  
OF ISSUE**REDACTED****REDACTED**

EMPLOYED BY

Self

NATURE OF BUSINESS

Financial Research

PRESENT OCCUPATION

**REDACTED**CITIZEN OF U.S.A.  
YES ☒ NO ☐THEREBY APPLY FOR A PISTOL/REVOLVER LICENSE TO: (Check one only) ☒ CARRY CONCEALED ☐ POSSESS ON PREMISES  
☐ POSSESS/CARRY DURING EMPLOYMENT (\* Premise address or place of employment must be provided)

STREET ADDRESS OR OTHER LOCATION

CITY, VILLAGE, TOWN

ZIP CODE

A LICENSE IS REQUIRED FOR THE FOLLOWING REASON:

Full Carry

GIVE FOUR CHARACTER REFERENCES WHO BY THEIR SIGNATURE ATTEST TO YOUR GOOD MORAL CHARACTER

LAST, FIRST, MI

Robert E. Donald D

PARKS, Vivienne

DAVIS, Allen

LA ROSA, Rosemary

SIGNATURE

-Diane Chabry

Vivienne Parks

Allen Davis

Rosemary La Rosa

HAVE YOU EVER BEEN ARRESTED, SUMMONED, CHARGED OR INDICTED ANYWHERE FOR ANY OFFENSE, INCLUDING DWI (EXCEPT TRAFFIC INFRACTIONS)? ☐ YES ☐ NO IF YES, FURNISH THE FOLLOWING INFORMATION:

DATE	POLICE AGENCY	CHARGE	DISPOSITION - COURT AND DATE

HAVE YOU EVER BEEN TERMINATED/DISCHARGED FROM ANY EMPLOYMENT OR THE ARMED FORCES FOR CAUSE? ☐ YES ☒ NOHAVE YOU EVER UNDERGONE TREATMENT FOR ALCOHOLISM OR DRUG USE? ☐ YES ☒ NOHAVE YOU EVER SUFFERED ANY MENTAL ILLNESS, OR BEEN CONFINED TO ANY HOSPITAL, PUBLIC OR PRIVATE INSTITUTION, FOR MENTAL ILLNESS? ☐ YES ☒ NOHAVE YOU EVER HAD A PISTOL LICENSE, DEALER'S LICENSE, GUNSMITH LICENSE, OR ANY APPLICATION FOR SUCH A LICENSE DISAPPROVED, OR HAD SUCH A LICENSE REVOKED OR CANCELLED? ☐ YES ☒ NODO YOU HAVE ANY PHYSICAL CONDITION WHICH COULD INTERFERE WITH THE SAFE AND PROPER USE OF A HANDGUN? ☐ YES ☒ NOHAVE YOU EVER BEEN CHARGED, PETITIONED AGAINST, A RESPONDENT, OR OTHERWISE BEEN A SUBJECT OF A PROCEEDING IN FAMILY COURT? ☐ YES ☒ NO

IF ANSWER TO ANY QUESTION IS YES, EXPLAIN HERE:

ANY OMISSION OF FACT OR ANY FALSE STATEMENT WILL BE SUFFICIENT CAUSE TO DENY THIS APPLICATION AND CONSTITUTES A CRIME PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH.

AM AWARE THAT THE FOLLOWING CONDITIONS AFFECT ANY LICENSE WHICH MAY BE ISSUED TO ME:

NO LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS VALID IN THE CITY OF NEW YORK.  
 ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION WILL BE VALID ONLY FOR A PISTOL OR  
 REVOLVER SPECIFICALLY DESCRIBED IN THE LICENSE PROPERLY ISSUED BY THE LICENSING OFFICER.  
 IF I PERMANENTLY CHANGE MY ADDRESS, NOTICE OF SUCH CHANGE AND MY NEW ADDRESS MUST  
 BE FORWARDED TO THE SUPERINTENDENT OF THE STATE POLICE AND IN NASSAU COUNTY AND SUFFOLK COUNTY,  
 TO THE LICENSING OFFICER OF THAT COUNTY WITHIN 10 DAYS OF SUCH CHANGE.  
 ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS SUBJECT TO REVOCATION AT ANY TIME BY THE LICENSING OFFICER OR ANY JUDGE OR JUSTICE OF A COURT OF RECORD.

PATRICIA M. PRICE  
 Notary Public, State of New York  
 Registration #01PR6040763  
 Qualified in Westchester County  
 My Commission Expires May 1, 2010

JURAT:

SIGNED AND SWORN TO BEFORE ME

THIS 4<sup>th</sup> DAY OF March, 2009

AT White Plains, NEW YORK

Patricia M. Price  
 SIGNATURE OF OFFICER ADMINISTERING OATH

NOTARY PUBLIC

TITLE OF OFFICER

APPLICATION NOT VALID UNLESS SWORN



Christina Nikolov  
 SIGNATURE OF APPLICANT

THIS FORM APPROVED BY SUPERINTENDENT OF STATE POLICE AS REQUIRED BY PENAL LAW SECTION 400.00, SUBD. 3.

PP83APP03A



1. RIGHT THUMB 2. RIGHT FOREFINGER 3. RIGHT MIDDLE FINGER 4. RIGHT RING FINGER 5. RIGHT LITTLE FINGER

**REDACTED**

6. LEFT THUMB 7. LEFT FOREFINGER 8. LEFT MIDDLE FINGER 9. LEFT RING FINGER 10. LEFT LITTLE FINGER

**REDACTED**

11. IMPRESSIONS TAKEN SIMULTANEOUSLY  
LEFT FOUR FINGERS THUMBS TAKEN TOGETHER RIGHT FOUR FINGERS

**REDACTED**

**REDACTED**

IMPRESSIONS  
TAKEN BY:

NAME Handerwood

RANK

SUBJECT

DATE

03-04

**REDACTED**

APPLICANT'S SIGNATURE AND ADDRESS: Christina Nitolo

INVESTIGATION REPORT - ALL INFORMATION PROVIDED BY THIS APPLICANT HAS BEEN VERIFIED:

NAME

Handerwood

RANK

Det

ORGANIZATION

W/ADPS

THIS APPLICATION IS APPROVED (DISAPPROVED) (STRIKE OUT ONE)

SIGNATURE OF INVESTIGATING OFFICER  
THE FOLLOWING RESTRICTION(S) IS (ARE) APPLICABLE TO THIS LICENSE:

HON. JEFFREY A. COHEN  
COUNTY COURT JUDGE

IF LICENSING OFFICER AUTHORIZES THE POSSESSION OF A PISTOL OR REVOLVER AT THE TIME OF ISSUE OF ORIGINAL LICENSE, FURNISH THE FOLLOWING INFORMATION:

MANUFACTURER	PISTOL OR REVOLVER	CALIBER	SERIAL NUMBER	MODEL	PROPERTY OF:
Glock	Pistol	45	KPL 141	30	Palm Beach Shooting Center
Glock	Pistol	45	HLD 597	39	Coles Gun Shop

DUPLICATE OF THIS APPLICATION MUST BE FILED WITH THE SUPERINTENDENT OF STATE POLICE WITHIN 10 DAYS OF ISSUANCE AS REQUIRED BY PENAL LAW SECTION 400.00 SUBD. 5.

PPC(ADP)(3)





Robert P. Astorino  
County Executive

Department of Public Safety

June 5, 2009

George N. Longworth  
Commissioner-Sheriff

Honorable Justice

Westchester County Court

111 Dr. Martin Luther King, Jr. Blvd.

White Plains, NY 10601

RE: Pistol License application of Christina M. Nikolov

**REDACTED**

Dear Honorable Justice:

The above captioned individual has submitted an application to Westchester County for a New York State (NYS) pistol license for the purpose of **FULL CARRY**.

A fingerprint based criminal background check was conducted, and a response by both the NYS Department of Criminal Justice Services and the Federal Bureau of Investigation revealed no derogatory information. A query of the files of the NYS Department of Mental Hygiene also revealed no derogatory information; however, the applicant revealed that she underwent counseling prior to undergoing transgender surgery in 1999.

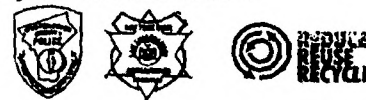
Letters from each of four character references attesting to the good moral character and reputation of the applicant are on file. The applicant has provided proof that she is a United States citizen.

The applicant has submitted notarized documentation attesting that 1) she has been a law abiding citizen her entire life as evidenced by her non-existent criminal record, and 2) she currently possesses a concealed weapon permit with full carry privileges in the state of Florida, and 3) she has never once brandished or discharged a firearm other than in a safe manner, and 4) she is well aware of the responsibility and restraint involved when carrying a concealed weapon, and 5) if she is ever confronted with a potentially dangerous situation, common sense dictates that the course of action is to extract herself from the situation and contact the authorities immediately, and 6) if she is unable to escape such a situation, the only time that she would ever use a firearm is if her life were in imminent danger and she has exhausted all other non-lethal options, and 7) even in such a situation, depending on the circumstances (close quarters, innocent people nearby, etc.), she would still need to determine whether using a firearm would be prudent, and 8) she has completed three firearm safety courses with NRA Certified Instructors over the past three years, and 9) for the past twenty years she has been a licensed commercial pilot, and 10) for more than two years she has been a

A New York State Accredited  
Law Enforcement Agency

1 Saw Mill River Parkway  
Hawthorne, NY 10532

Telephone: (914) 864-7700



Website: westchestergov.com

Christina M. Nikolov

June 5, 2009

Page 2 of 2

certified flight instructor and instrument flight instructor, and 11) as a pilot and more importantly, someone who teaches people to fly, it is absolutely critical for her to always remain calm regardless of how stressful a situation becomes which is essential when confronted with a potentially dangerous situation, and 12) as a transgender female, she is far more likely to be a victim of violent crime than is a genetic female, and 13) hate crimes are increasing locally as well as nationwide, and 14) she requires a Full Carry firearm license for personal protection.

It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met. The applicant has not provided information that she has ever been threatened in any way. Rather, the applicant has asserted that she is "more likely" to be a victim of a violent crime than is a genetic female. The applicant has provided only general information that might be applicable to any member of the public. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public, or from other persons similarly situated.

This application is respectfully forwarded with a recommendation of **DISAPPROVAL**.

Sincerely,


DEPARTMENT OF PUBLIC SAFETY  
Westchester County Police

Thomas Belfiore  
Commissioner-Sheriff

TB/fd

Westchester  
gov.com

Memorandum  
Department of Public Safety

DATE: May 20, 2009  
TO: Lt. Frank Donovan  
FROM: Sgt. Bruce Bellom #15   
RE: Pistol License application of Christina M. Nikolov

The above captioned individual has submitted an application to Westchester County for a New York State (NYS) pistol license for the purpose of FULL CARRY.

A fingerprint based criminal background check was conducted, and a response by both the NYS Department of Criminal Justice Services and the Federal Bureau of Investigation revealed no derogatory information. In addition, a query of the files of the NYS Department of Mental Hygiene also revealed no derogatory information. Letters from each of four character references attesting to the good moral character and reputation of the applicant are on file. The applicant has provided proof that she is a United States citizen.

The applicant has submitted notarized documentation attesting that 1) she has been a law abiding citizen her entire life as evidenced by her non-existent criminal record, and 2) she meets all the other minimum requirements as stated within the Pistol License Information Handbook, and 3) she currently possesses a concealed weapon permit with full carry privileges in the state of Florida, and 4) she has never once brandished or discharged her firearms anywhere other than in a safe manner at a law enforcement utilized shooting range, and 5) as someone with considerable experience carrying a firearm legally, she is well aware of the responsibility and restraint involved when carrying a concealed weapon, and 6) if she is ever confronted with a potentially dangerous situation, common sense dictates that the course of action is to extract herself from the situation and contact the authorities immediately, and 7) if she is unable to escape such a situation, the only time she would ever take out her firearm is if her life were in imminent danger and she has exhausted all other non-lethal options, and 8) even in such a situation, depending on the circumstances (close quarters, innocent people nearby, etc.), she would still need to determine whether using her firearm would be prudent, and 9) she has completed three firearm safety courses with NRA Certified Instructors over the past three years, and 10) she continually seeks opportunities to further educate herself in the area of safety, even when not required by law, and 11) for the past twenty years she has been a licensed commercial pilot, and 12) for more than two years she has been a certified flight instructor and instrument flight instructor, and 13) as a pilot and more importantly, someone who teaches people to fly, it is absolutely critical for



Christina M. Nikolov  
May 20, 2009  
Page 5 of 5

her to always remain calm regardless of how stressful a situation becomes which is essential when either involved in or witness to a potentially dangerous situation, and 14) also relevant to her application and establishing proper cause for a full carry license is her status as a transgender female as the National Coalition of Anti-Violence Programs reports that she is far more likely to be a victim of violent crime than a genetic female, and 15) hate crimes are increasing locally as well as nationwide, and 16) she has included a list of hundreds of crimes against people in similar circumstances as herself, some of which are high profile, like the Brandon Teena murder.

The applicant states that the Canadian government required pre-op counseling and review as well as a post-op interview following her reassignment surgery, however no documentation or reports regarding the counseling sessions are available. While there is ample evidence to indicate that individuals who have undergone transgender reassignment have suffered extreme pain and death (as supplied by the applicant in a 49-page supporting document), the applicant has not provided evidence that she has ever been harassed, threatened, assaulted, abused, robbed or burglarized. She points out only that she is "more likely" to be a victim of a violent crime than a genetic female as reported by the National Coalition of Anti-Violence Programs.

Although the applicant's circumstances are unique, it appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met. The applicant has not demonstrated an extraordinary need for self protection distinguishable from that of the general public.

This application is respectfully forwarded with a recommendation of **DISAPPROVAL**.

April 11, 2008

To: Whom it may concern

From: Dan Waters

Subject: Employment Reference

This letter is to verify that Christina Nikolov has been employed at Falcon Aviation Academy from February, 2008 until April 11, 2008 as an Instructor Pilot. She performed her assigned tasks within company requirements with no problems noted. I will be happy to provide a reference to anyone as needed in the future.



Dan Waters  
President  
Falcon Aviation Academy  
770-486-5561  
[dan@falconairservices.com](mailto:dan@falconairservices.com)



**WESTCHESTER COUNTY POLICE  
PISTOL LICENSE UNIT**

**ATTACHMENT: FULL CARRY**

OFFICE USE ONLY

CASE#: \_\_\_\_\_

DET: \_\_\_\_\_

Answer all questions fully and in accordance with the guidelines set forth in the Pistol Safety & Information Handbook. This form and attachments must be notarized.

**APPLICANT INFORMATION:**

Last Name: Nikolov First Name: Christina M.I.: M  
**REDACTED** **REDACTED**  
Address: \_\_\_\_\_  
STREET CITY STATE ZIP

List all factors which you believe to be relevant to your application and which establish proper cause for issuance of a firearm license for the purpose of Full Carry:

Please see attached

please see attached

Christina Nikolov  
APPLICANT NAME (PRINT)

Christina Nikolov  
APPLICANT NAME (SIGNATURE)

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )

SUBSCRIBED AND SWORN TO BEFORE ME THIS 3 DAY OF March YEAR 2009

LAINÉ TARBANIA  
Notary Public - State of New York  
No. 01TA6179869  
Qualified in Westchester County  
My Commission Expires December 31, 2011

Lainé Tarbania  
SIGNATURE OF NOTARY PUBLIC

Westchester  
gov.com

Andrew J. Spano  
County Executive

Department of Public Safety  
Thomas Belfiore  
Commissioner/ Sheriff

OFFICE USE ONLY:

CASE #: 09-192

DETECTIVE: Ju

Date: 3/01/09

State of New York  
Department of Mental Hygiene  
44 Holland Avenue  
Albany, New York 12229

Re: Application for Firearm License

Dear Sir or Madam:

It is hereby requested that you conduct a check of your records against the name of the below listed person, in accordance with New York State Penal Law, section 400 (4), and that you respond to this agency in writing, as soon as possible:

APPLICANT: PLEASE COMPLETE THE BELOW LISTED INFORMATION:

Name (Last): Nikolov First: Christina M.I. M

Alias/ Maiden Name: \_\_\_\_\_

Address: **REDACTED** **REDACTED**  
STREET CITY STATE ZIP

Sex: F Birth Date **REDACTED**

Place of Birth: New York Country: United States

Sincerely,

DEPARTMENT OF PUBLIC SAFETY  
Westchester County Police

*Thomas Belfiore*  
Thomas Belfiore  
Commissioner-Sheriff

NO OFFICIAL RECORD OF HOSPITALIZATION  
FOR MENTAL ILLNESS SINCE 1965. IF SEARCH  
PRIOR TO 1965 IS REQUIRED, PLEASE SUBMIT  
WRITTEN REQUEST



Christina Nikolov

Explanation of "Yes" answers

- ① In addition to that which is listed in this application, I work as a flight instructor. I have worked for flight schools, as well as on an individual basis with private clients, training students and providing refresher lessons. I am also a volunteer with Civil Air Patrol, which is a branch of the United States Air Force. In addition, I also do other volunteer work.
- ⑨ I applied for and currently hold a Concealed Weapon Permit in Florida, since Nov. 15, 2006.
- ⑬ Even though it was not required by law, I opted to take two 6hour training courses (Firearm safety with live fire) and (Tactical Training). Approximately 800 Rounds fired.

Christina Nikolov

Christina Nikolov

sworn to me this  
3rd day March 2009  
*Laine Tarbania*

LAINA TARBANIA  
Notary Public - State of New York  
No. 01TA6179869  
Qualified in Westchester County  
My Commission Expires December 31, 2011

\* Please describe your interest in target shooting as a sportsman:

My family and I have been involved in target shooting and other outdoor activities for as long as I can recall. Outdoor sports like target shooting have been a part of our family's culture for so long that it is difficult to imagine life without them. And it is my belief that target shooting as a sportsman strengthens ones character, while also allowing a person to connect with this nation's traditions.

\* List any other Factor(s) which you believe to be relevant to your application and which establish proper cause for the issuance of a firearm license for the express purpose of target shooting as a sportsman:

I enjoy target shooting to practice safety procedures and improve my personal marksmanship. Safety is my number one priority, so as a responsible and experienced owner of firearms, it is my belief that anyone who is afforded with opportunities to practice handling and discharging firearms in a safe environment such as a shooting range staffed by range officers, will be a far safer gun owner.

\* List all factors which you believe to be relevant to your application and which establish proper cause for the issuance of a firearm license for the purpose of Full Carry:

First of all, I have been a law-abiding citizen my entire life, as evidenced by my non-existent criminal record. And I meet all the other minimum requirements stated within the Pistol License Information Handbook.

In addition, I currently possess a concealed weapon permit (with full-carry privileges) in the State of Florida and have never once brandished or discharged my firearms anywhere other than in a safe manner at a law-enforcement utilized shooting range. As someone with considerable experience carrying a firearm legally, I am well aware of the responsibility involved when carrying a concealed firearm and the restraint required.

If ever confronted with a potentially dangerous situation, common sense dictates that the course of action is to extract myself from the situation and contact the authorities immediately. And if I am unable to escape, the only time I would ever take out my firearm would be if my life were in imminent danger and I have exhausted all other non-lethal options. But even then, depending on the circumstances (closed quarters, innocent people nearby, etc.), I would still need to determine whether using a firearm would be prudent.

I have completed three firearms safety courses with NRA Certified Instructors over the past three years and continually seek opportunities to further educate myself in the area of safety, even when not required by law.

For the past 20 years I have been a licensed commercial pilot and for more than two years, a certified flight instructor and instrument flight instructor. As a pilot and more importantly, someone who teaches people to fly, it is absolutely critical for me to always remain calm regardless of how stressful a situation becomes. I mention this because a calm demeanor is essential when either involved in or a witness to a potentially dangerous situation.

Also relevant to my application and establishing proper cause for issuing me a New York State full carry firearm license is my status a transgender female, the National Coalition of Anti-Violence Programs reports that I am far more likely to be a victim of violent crime than a genetic female. And these hate crimes are increasing locally, as well as nationwide. I have included a list of hundreds of crimes against people in similar circumstances as myself, some of which are high profile, like the Brandon Teena murder.

Christina Nikolov

Christina Nikolov

sworn to me  
this 3rd day  
March 2009

Laine Tarbania

LAINA TARBANIA  
Notary Public - State of New York  
No. 01TA6179869  
Qualified in Westchester County  
My Commission Expires December 31, 2011



CLINIQUE DE CHIRURGIE ESTHÉTIQUE  
SAINT-JOSEPH

AFFIDAVIT

I, Pierre Brassard, M.D., swear under penalty of perjury as follows:

1. I am a physician with offices at: 1003, boulevard St-Joseph est, Montréal, Québec, Canada, H2J 1L2.
2. I am a surgeon duly licensed to practice in Québec, Canada. My license number is 185 196.
3. I am experienced in gender reassignment surgery.
4. On October 25<sup>th</sup> 1999, at Montréal, Québec, Canada, I performed male-to-female gender reassignment surgery on an individual then identified to me as [REDACTED] formerly [REDACTED] New York City, New York and identified as male on this individual's birth record.
5. At that time, I successfully completed gender reassignment surgery for Christina Nikolov and the anatomical sex of the person has changed from male to female. Any designation on her birth record and all official documents as male is incorrect.
6. I am completing this notarized Affidavit to support Christina Nikolov's request to amend her birth record and all official documents to reflect her new name and female gender.

September 29, 2006  
Date:

  
Pierre Brassard, M.D.

SWORN BEFORE ME in the City  
of Montréal, Province of Québec,  
on the twenty ninth day of  
September two thousand six.

Paul Dorval, Notary Public

PAUL DORVAL, Commissioner to the Oath/Notary Public for the whole  
Province of Québec, Canada, Commission expires September 11, 2009.



PIERRE BRASSARD, M.D. PROCC

CLINIQUE DE CHIRURGIE ESTHÉTIQUE SAINT-JOSEPH  
1003, BOUL. SAINT-JOSEPH EST, MONTRÉAL (QUÉBEC) H2J 1L2  
TÉL. (514) 288-2097 / FAX (514) 288-3547

**MAJOR NORM BELSON, INC.  
CERTIFICATE OF TRAINING**

This is to certify that I have observed Christina Nikolov Safely  
Handle and Discharge a firearm as required by Florida State Statute 790.06 for a  
**CONCEALED WEAPON PERMIT.**

Norman D. Belson  
(Signature)

**NORMAN D. BELSON, PRESIDENT**  
(Printed Name)

**NEIP INSTRUCTOR # 3696248**

11/02/2006  
(Date)

I, Christina Nikolov, certify that I have demonstrated safe handling and  
discharging of a firearm as required for a **CONCEALED WEAPON PERMIT APPLICATION** by  
Florida State Statute 790.06.

Date: 11/2/06

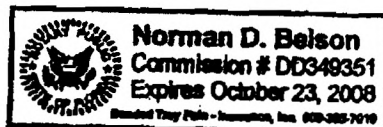
Firing Facility: Knight Shooting Sports Complex

Christina Nikolov  
Firearms Training Course Participant

State of: Florida

County of: Pinellas

Sworn to and subscribed before me this 2nd day of November, 2006

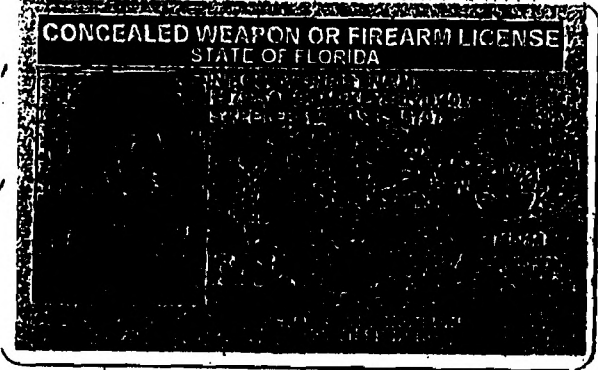
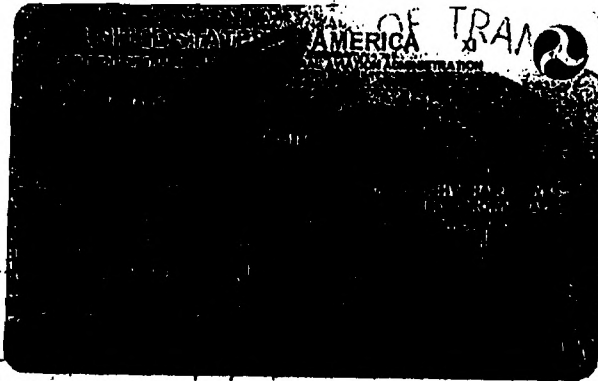


My Commission Expires:

Norman D. Belson  
NOTARY PUBLIC

N24-113-70-708-0  
Identification Number

FL DL  
Identification Type



VR 115 (Rev. 10/83) 800M-318944(85)

DOCUMENT NO. B874441

**THE CITY OF NEW YORK**  
DEPARTMENT OF HEALTH  
BUREAU OF VITAL RECORDS  
**CERTIFICATION OF BIRTH**

This is a certification of name and birth facts as filed in the Bureau of Vital Records, Department of Health, City of New York.

**REDACTED**

DATE OF BIRTH: 156-70-411675


BOROUGH: QUEENS DATE FILED: 08-25-70 DATE ISSUED: 08-01-86

NAME: CHRISTOPHER PAND0 NIKOLOV \*\*\*

SEX: MALE

MOTHER'S MAIDEN NAME: VICTORIA ANN BROWN

FATHER'S NAME: NIKOLAI PANDON NIKOLOV

  
 IRENE A. SCANLON  
 CITY REGISTRAR

Do not accept this transcript unless it bears the raised seal of the Department of Health. The reproduction or alteration of this certification is prohibited by Section 3.21 of the New York City Health Code.





**THE NATIONAL RIFLE  
ASSOCIATION OF AMERICA**

Awards this certificate to

Christina Nikolov

for successful completion of the

**NRA  
BASIC PISTOL  
COURSE**

Issued At Westchester NY

[Signature]  
NRA Certified Instructor

Date 2/5/07

[Signature]  
NRA Secretary

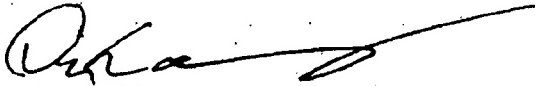
April 11, 2008

To: Whom it may concern

From: Dan Waters

Subject: Employment Reference

This letter is to verify that Christina Nikolov has been employed at Falcon Aviation Academy from February, 2008 until April 11, 2008 as an Instructor Pilot. She performed her assigned tasks within company requirements with no problems noted. I will be happy to provide a reference to anyone as needed in the future.



Dan Waters  
President  
Falcon Aviation Academy  
770-486-5561  
[dan@falconairservices.com](mailto:dan@falconairservices.com)



**MAJOR NORM BELSON, INC.  
CERTIFICATE OF TRAINING**

This is to certify that I have observed Christina Nikolov Safely  
Handle and Discharge a firearm as required by Florida State Statute 790.06 for a  
**CONCEALED WEAPON PERMIT.**

Norman D. Belson  
(Signature)

**NORMAN D. BELSON, PRESIDENT**  
(Printed Name)

**NRA INSTRUCTOR # 3696248**

11/02/2006  
(Date)

I, Christina Nikolov, certify that I have demonstrated safe handling and  
discharging of a firearm as required for a **CONCEALED WEAPON PERMIT APPLICATION** by  
Florida State Statute 790.06.

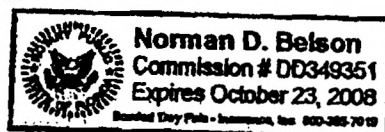
Date: 11/2/06 Firing Facility: Knight Shooting Sports Complex

Christina Nikolov  
Firearms Training Course Participant

State of: Florida

County of: Pinellas

Sworn to and subscribed before me this 2nd day of November, 2006



My Commission Expires:

Norman D. Belson  
NOTARY PUBLIC

N241-113-70-708-0  
Identification Number

FL DL  
Identification Type

NCIC SEARCH

REDACTED

NCIC SEARCH

REDACTED

NCIC SEARCH

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NCIC SEARCH

REDACTED

A transgender woman survived an attack by a male who drove her home from a nightclub. The woman recognized the offender as a nightclub patron when he stopped his car to offer her a ride. The offender invited himself into the woman's home by asking to use the phone. Once inside of the residence, the offender proceeded to hit and choke the woman, leaving her with a broken nose, facial fractures, bruises, and he also ripped her ear during the attack. During the attack, neighbors called police and they arrived as the offender was leaving the residence. The offender was arrested and after several court appearances, paid the survivor's medical bills. (Chicago)

Two friends, a gay man and a transgendered woman, were accosted by a group of 12 teenage males on their way home. One of the male perpetrators threatened to stab the gay man. Then the rest of the group joined in and began swinging at him with hands and punching him. Victim's friend tried to aid him and was punched in the face. She suffered a split lip and was bleeding. The perpetrators yelled anti-gay slurs during the attack and threatened to kill both of them. The victims ran for help to the precinct located across the street from where the incident took place, but the police were indifferent and refused to intervene. The Anti-Violence Project met with precinct commanders. (New York)

Although the decrease in overall number of hate crime incidents reported in 2006 may falsely suggest that violence in New York is on the retreat, a closer look at the hate violence data proves to the contrary. With 5 hate crime murders, 35 robberies, 218 assaults and attempted assaults, and 837 reported incidents of harassment, 2006 proved to be a violent year for the LGTB community in New York.

These somber statistics only confirm that LGTB people remain a prime target for hate-motivated violence in a persisting sociopolitical climate of inequality, discrimination and social exclusion of LGTB individuals by mainstream society.

The number of female victims of hate-motivated violence rose 5% (from 148 in 2005 to 155 in 2006), and the number of transgender males reporting bias incidents increased by 20% (from 5 in 2005 to 6 in 2006). On the contrary, the number of transgender female victims dropped 12% (from 100 in 2005 to 88 in 2006) and the number of male victims reporting bias-motivated violence decreased by 17% (from 434 in 2005 to 362 in 2006). Despite the 17% drop in male victims and 12% drop in transgender female victims in 2006, together they represent 70% of the total number of hate violence victims AVP assisted in 2006 (with males representing 56% and transgender females 14%). Reports of LGTB organizations targeted for hate violence were down 45% (from 29 in 2005 to 16 in 2006). Overall, there was a 13% decrease in total number of bias crime victims in 2006 (down from 735 in 2005 to 641 in 2006).



Victim numbers dropped in all age categories except for the youth and the elderly. Sixty-five of the LGTB hate crime victims in 2006 were youth under 18, a 35% increase over 48 in a previous year, and 16 were adults 65 years and older, a 33% increase over 12 victims last year. In 2006, AVP continued a focused outreach targeting LGTBQ youth which may have contributed to the higher number of victims in this age category. Victims ages 30-44 comprised the largest age group in both 2005 and 2006, however, last year the number of victims in this category dropped 22% from 263 in 2005 to 205 in 2006. Also, there was a 24% drop in 18-22 year-olds (from 62 in 2005 to 47 in 2006) and a 19% fall in victims ages 23-29 (from 127 in 2005 to 103 in 2006).

The number of victims of African-descent rose 2% to 134, the only ethnic/racial category to show an increase over previous year. Asian/Pacific Islanders decreased by 43% as did Multi-racial victims who dropped by 42%, and Whites declined by 19%. Despite an overall 12% decrease in a number of reported anti-LGBT hate crime assaults, incidents involving use of weapons rose a noticeable 10% (from 73 in 2005 to 80 in 2006). The most significant was an increase in use of bats, clubs or other blunt objects as a weapon of choice by perpetrators of anti-LGBT bias crimes, a 64% increase from 11 uses in 2005 to 18 in 2006. Even though the number of victims suffering physical injuries fell 15% in 2006 (from 176 in 2005 to 150 in 2006), the number of victims requiring hospitalization in 2006 remained constant compared to 2005, with 17 victims needing to be hospitalized.

Harassment incidents, including such acts as intimidation, mail and telephone harassment, are the most common form of anti-LGBT hate-motivated violence. Despite a drop of 20% in 2006, harassment occurs with a higher frequency than any other type of anti-LGBT bias crime, with 837 instances of harassment reported to AVP in 2006 (down from 1040 in 2005). Anti-LGBT hate incidents happen all year long; however, the greatest number of bias incidents in a single month in 2006 unsurprisingly occurred in June, a month of pride and increased visibility of LGTB communities. This works to support a trend documented by AVP in prior reports that suggests that an increased visibility of LGTB people equals a rise in anti-LGBT violence.

The number of LGTB hate crime victims choosing to report bias incidents to law enforcement continued to decline in 2006. The reporting dropped by 28% (from 275 in 2005 to 198 in 2006). While victims gave a variety of reasons for not reporting the anti-LGBT hate crimes to the authorities, one most often cited reason was a fear of bias attitude from and revictimization by the police. These statements are paralleled by 25% drop in reported courteous attitude exhibited by the police. Reports of incidents of verbal and physical abuse by police remained relatively even as compared to 2005. There was a considerable increase of 118% (from 11 in 2005 to 24 in 2006) in reported incidents that were refused hate crime classification by police. Getting the law enforcement to properly classify incidents as hate crimes continues to be a challenge and a

source of frustration for many LGTB hate crime victims. To further complicate the matter, the vast majority of those who commit bias crimes against LGTB people are never caught and their acts of hate go unpunished. In 2006, just 23% (45) of 197 anti-LGTB hate crimes reported to the police resulted in arrests, a 25% decline from 60 arrests in 2005. Males remain the primary perpetrators of anti-LGTB hate violence, even though their numbers registered a slight decline of 19% (from 841 in 2005 to 682 in 2006). The number of female offenders also declined from 160 in 2005 to 127 in 2006, a 21% decrease. There was however a significant decrease of 92% in offenders 65 years and older (down from 12 in 2005 to 1 in 2006), and a 72% drop in Multi-racial perpetrators. Overall, there was a 16% decrease in total number of bias crime offenders in 2006 (down from 1058 in 2005 to 893 in 2006).

An analysis of data for bias crime location showed that the LGTB hate crime victims are increasingly targeted at a residence or near their home. Thirty-six percent more hate crimes in 2006 occurred at a residence or the home of the victim (132 in 2005 and 179 in 2006). When a crime occurs at one's home or residence the sense of safety that it is supposed to offer is gone. This can further complicate the trauma suffered by the LGTB hate crime victims who were targeted at home. In contrast, the number of hate-motivated violence in cruising areas declined a significant 79% (from 14 in 2005 to 3 in 2006).



**2005-2006 TRENDS SUMMARY**

**TOTAL VICTIMS -9%**

**Female -14%**

**Intersex +50%**

**Male -10%**

**Transgender F-M N/C**

**Transgender M-F +20%**

**Self-identified -62%**

**Organizations -45%**

**Lesbian or Gay-identified -14%**

**Bisexually-identified +14%**

**Heterosexually-identified -6%**

**Questioning or Unsure +18%**

**African Descent +7%**

**Arab & Middle Eastern -27%**

**Asian & Pacific Islander +10%**

**Indigenous/First Peoples +133%**

**Latina/o -1%**

**Multi-Racial +9%**

**White -21%**

**Extent of Injuries:**

**No Injuries -18%**

**Minor Injuries +14%**

**Serious Injuries -10%**

**Of Victims Injured:**

**No medical attention req. +153%**

**Needed, but not received N/C**

**Outpatient treatment received -4%**

**Hospitalized +7%**

Travesty of justice

May 1997

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# Travesty of justice

## When is a murder not a murder? When the victim is transsexual.

by Kevin Rothstein

There is no one to answer for the death of Chanelle Pickett, a pre-operative transsexual whose one-night stand ended with a vicious beating in the bedroom of a Watertown apartment in November 1995. The man who took her home that night was found guilty May 3 only of punching Pickett in the face -- and not, as police and prosecutors charged, of wrapping his hands around her throat and squeezing the life out of her.



Nearly a month after the verdict was delivered, the local transgendered community and others remain outraged by the acquittal of Wil Palmer, Jr., 35, a computer programmer who took Pickett home after meeting her at Playland Café. On May 16, Palmer was sentenced to two years in prison (see "Justice" page). In the weeks since a Middlesex County jury acquitted Palmer of Pickett's death, observers have charged that Palmer used a top-notch team of lawyers (including a nationally known forensic expert who testified for O.J. Simpson) to manipulate a homosexual panic defense -- and get away with murder.

### Homosexual panic

On November 20, just hours after Palmer had brought Pickett home, police found frequent Playland patron lying face down in a pool of blood. The room was disheveled. Cocaine and a homemade pipe had been swept into the trash.

An autopsy showed that fluid had accumulated in Pickett's lungs and brain. This, together with hemorrhages found on her neck muscles, led a medical examiner to conclude that she had been strangled -- and possibly suffocated with a piece of cloth -- for at least eight consecutive minutes. According to Palmer's trial testimony, trouble started when he discovered that Pickett had a penis and asked her to leave his apartment. Instead of leaving, Pickett allegedly attacked Palmer, screaming "God will never die," and "the devil is here." Palmer testified that he got her to quiet down by sitting on her buttocks and holding her shoulders down. "I used enough force to stabilize him. . . . I intended to get him out of the house," Palmer said, adding that Pickett was still breathing when he released her.

Throughout the trial, Palmer's defense team emphasized that Palmer had no idea he had picked up a man. His lawyers even tried to introduce as evidence a segment from the talk show *Geraldo* entitled "Dead Ringers, Twisted Tales of Twins." On the show, Pickett appeared with her twin Gabrielle, also a pre-operative transsexual, and said she fooled men "all the time."

Describing Pickett as he first saw her at Playland shortly before midnight on November 19, Palmer carefully testified: "She was very attractive. She had nice curly hair, lipstick, full face, smelled nice, nice mannerisms."

He then told the jury how, upon their return to his Watertown apartment, the two first cooked and smoked crack, and then began to get intimate. "Chanelle Pickett reached over and removed my boxer shorts from my waist area. At that time she bent over and began to give me oral sex," he said. "We were getting romantic and I reached down and discovered Chanelle Pickett was a man. . . . I jumped up and I said 'You're out of here' and turned the light on."

Under questioning from his lead attorney, Walter Price, Palmer then painted a picture of a transsexual furious at being denied sex. "It was frightening. All of a sudden it turned from a soft voice to not just a man but a crazed man who began banging the walls and preaching. Crazy talk that made no sense whatsoever," he said.

At this point in his testimony, Palmer began referring to Pickett as "he" rather than "she." As in, "I approached the bed and he kicked me in the chest, just a violent blow."

Palmer's he/she switch was apparently motivated by the idea that a jury, confronted with a heterosexual man who willingly dabbled in transsexual sex, would believe such a man capable of stuffing a comforter down someone's throat and choking him to death — the scenario suggested by Dr. Stanton Kessler, the state's forensic pathologist. But a regular guy, a onetime construction worker who worked his way up to a good job at UNISYS — a regular guy who felt up a girl and found a penis beneath her silk panties — would garner sympathy.

The strategy evidently worked, which angers local transsexuals. "Is his defense, then, that he was so upset that this person had a penis?" asks Nancy Nangeroni, a Cambridge activist for Transsexual Menace, which tracks cases of violence against transgenders. "Is the fact that someone's genitals are not the shape you expect them to be grounds for murder?"

"[The jurors] let their homophobia, their transphobia, get the better of them," she adds. "I feel they did not do their job and, frankly, I hope this keeps them awake at night."

Others wondered what the outcome of the case would have been if Palmer had been the one found dead and a poor black transsexual who used drugs had been charged with murder. Another assault-and-battery conviction? "No way," says Watertown Police Captain Edward Deveau, who headed the investigation into Pickett's death.

'The story he told just didn't add up'

To investigators, the notion that Palmer didn't know Pickett was a man dressed as a woman when he brought her home from the Playland Café is ludicrous. Deveau said in an



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beyond a reasonable doubt that Pickett had been strangled to death. And Dr. Charles Wetli, an expert on cocaine's effect on the body, testified that the cocaine Pickett had inhaled that night could have caused her death. But he added that not enough tests had been done to show whether that had killed her.

Taken together, Baden and Wetli's testimony led the jury to conclude that Pickett's autopsy was incomplete and inconclusive. Facing the media after the verdict, one juror pointed specifically to the medical evidence as the fatal flaw in the prosecution's case. "They didn't do a complete job," said juror Robert Cunningham, referring to the autopsy.

### **'It could have happened to anyone'**

After the verdict was read, Palmer and his family emerged from the courtroom. He clutched a Bible in one hand and held onto his girlfriend with the other. Facing the television cameras that had waited three days for the verdict, he said, "There's a lot of remorse for the Pickett family." He also reiterated his innocence.

Those who knew Pickett, meanwhile, saw no justice in the verdict. "It's a tragedy," says Joseph Michael Raedy, who has tended bar at Playland for eight years and knew the Pickett twins. Raedy, who testified that he had seen Palmer at Playland on several occasions prior to the night he picked up Pickett, questioned how Palmer could claim that Pickett's death was an accident given that he never dialed 911 for help, either after their fight or the next morning. "He didn't give a shit," Raedy says. "It could have happened to anyone who was ever with him."

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## **Justice**

On May 16, citing what he called the "vicious beating" of Chanelle Pickett, Judge Robert A. Barton sentenced William Palmer to two years in prison for assault and battery. The sentence exceeded the prosecution's request for 18 months of jail time; if Barton had followed the court's sentencing guidelines, Palmer would have received only probation. Palmer will spend two years in the Billerica House of Corrections, with six months suspended for five years.

"This sends a clear message to the inadequacy of the jury's ruling," Transsexual Menace spokesperson Nancy Nangeroni said after the sentencing.

Nearly 25 other transgenders and their supporters joined Nangeroni outside the Middlesex Courthouse in Cambridge the morning of Palmer's sentencing to call attention to violence against transgendered people -- violence that often goes unpunished. Activists bore a copy of a letter from US Congressman Barney Frank to Attorney General Janet Reno, urging the Justice Department to begin an inquiry into violence against transgenders. Frank also asked the Justice Department to begin compiling statistics to better track such violence. Many demonstrators pointed to Palmer's murder acquittal as proof that transgenders are not being served by this country's system of justice.

"There's just a feeling that if these people were rich white boys, things would have come

Travesty of justice

Page 5 of 5

out very differently," said transsexual Stacey Montgomery.

But Judge Barton, perhaps, saw it differently. In sentencing Palmer, he addressed lead defense attorney Walter Prince: "This defendant should kiss the earth you walk on," he said.

Somebody is listening.

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*Kevin Rothstein is a freelance writer living in Brookline.*

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Respond to this article.

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## **Brandon (aka Brandon Teena, Tenna Ray Brandon, Teena Brandon)**

**Location:** Humboldt, Nebraska

**Cause of Death:** Shot to death, then stabbed, by John Lotter and Marvin Thomas Nissen.

**Date of Death:** December 31, 1993

**Source:** *Omaha World Herald*, January 9, 1994, amongst others.

### **Remembering Brandon**

On December 31, 1993, John Lotter and Marvin Thomas Nissen murdered Brandon, Lisa Lambert, and Philip De Vine in a farmhouse in rural Richardson County, Nebraska. These multiple murders occurred one week after Lotter and Nissen forcibly removed Brandon's pants and made Lana Tladel, whom Brandon had been dating since moving to Falls City from Lincoln three weeks earlier, look to prove that her boyfriend was "really a woman." Later in the evening of this assault, Lotter and Nissen kidnapped, raped, and assaulted Brandon. Despite threats of reprisal should these crimes be reported, Brandon filed charges with the Falls City Police Department and the Richardson County Sheriff, however, Lotter and Nissen remained free. Lotter and Nissen have both been convicted; Lotter is currently on death row and Nissen, who testified against Lotter, was sentenced to life without parole.

Brandon was a female-bodied twenty-year-old who passed, to some extent, as a man, without hormonal or surgical intervention. Given the name "Teena Renae Brandon" at birth, Brandon used a number of different gender-neutral and masculine names. Upon first arriving in Richardson County, Tenna Ray Brandon said it would be easier to be called "Brandon". Although "Brandon Teena" has become codified as the name with which to refer to Brandon, there is little evidence for Brandon's own use of this name.

Trans, lesbian and gay, and mainstream media have been interested in this case. It received coverage and analysis in many newspapers, and in publications such as *The FTM Newsletter*, *Transsexual News*, *Telegraph*, *TransSisters*, *Transgender Tapestry*, *The Village Voice*, *The Advocate*, *Girlfriends*, *Playboy*, *The New Yorker*, and *GLQ: A Journal of Lesbian and Gay Studies*. Aphrodite Jones wrote a true crime book, *All S/He Wanted*, about Brandon's life and death. Independent filmmakers Susan Muska and Greta Olafsdottir's documentary *The Brandon/Teena Story* is currently on a theater run in the United States. The Guggenheim Museum commissioned Shu Lea Chang's web-based art installation project *Brandon*. A novel by Dinitia Smith, *The Illusionist*, bears a striking resemblance to the story of Brandon's life and death, although the novel includes the customary caveat that any resemblance to real persons is unintended. Several mainstream filmmakers, including Diane Keaton, have explored possibilities for a feature-length movie based on this story.

The murder of Brandon was a catalyst for mid-1990s trans activism, especially for the rise of Transsexual Menace to national recognition in the United States and for the increased participation of trans in U.S. trans activism.

David King

**Location:** Atlanta, Georgia

**Cause of Death:** Shot in the head

**Date of Death:** October 14, 1991

**Source:** Dallas Denny of GEA, and the Atlanta Journal-Constitution

## **Ontwon Curtis**

**Location:** Newport News, Virginia

**Cause of Death:** Shot several times in the chest

**Date of Death:** September 13, 2002

**Source:** WVBC Channel 13, September 13, 2002

**Notes:** Ontwon Curtis, who neighbors claim was a transvestite, was shot several times in the chest while at home. Andrew Coleman has been arrested in this crime, and is awaiting trial.

## **Roberta Nizah Morris**

**Location:** Philadelphia, Pennsylvania

**Cause of Death:** Beaten with a crowbar

**Date of Death:** December 24, 2002

**Source:** *Philadelphia Inquirer*, December 31, 2002

**Notes:** Morris was a popular transgender performer. Police initially attempted to assist her on December 22nd, but released her after she refused medical treatment. She was later found by a passing motorist, and died in the hospital on Christmas Eve. While a medical examiner has declared this a homicide, the police want to assume it to have been an accidental bludgeoning. Many in the community have wondered why the police have been so difficult to work with on this case.

## **Chandini, aka Nazir**

**Location:** Bangalore, India

**Cause of Death:** Burned to death

**Date of Death:** December 1, 2002

**Source:** Sangama (rights organization)

**Notes:** Chandini was a 22 year old hijra, or transgendered woman. While police has declared this to be a suicide, strong evidence suggests otherwise.

## **Shelby Tracey Tom**

**Location:** North Vancouver, British Columbia, Canada

**Cause of Death:** Murdered, allegedly by Jatin Patel

**Date of Death:** May 31, 2003

**Source:** *Xtra! West*, Jun 12, 2003br /> **Notes:** Tom was a 40-year-old Asian transsexual. Her body was discovered in a shopping cart behind a North Vancouver laundromat. Jatin Patel, a 29-year-old, was charged with 2nd degree murder.

## **Unknown Transgendered woman**

**Location:** Cali, Columbia

**Cause of Death:** Stabbed multiple times

**Date of Death:** March 6, 2003

**Source:** Vanessa Foster

**Notes:** This transgendered person was roughly 25 years of age. She was dumped from a car alongside a highway. Reports indicate that she died of six stab wounds in different parts of her body.

## **Jessica Mercado**

**Location:** New Haven, Connecticut

**Cause of Death:** Stabbed multiple times, then burnt

**Date of Death:** May 9, 2003



### **Michelle Paz**

**Location:** Valencia, Carabobo, Venezuela

**Cause of Death:** Shot four times

**Date of Death:** January 11, 2002

**Source:** The International Gay and Lesbian Human Rights Commission (IGLHRC)

**Notes:** As part of continued violence and harassment of transvesti activists in Venezuela, Michelle Paz was shot four times, reportedly by police officers. Other local transpeople were fired upon and detained by police in the days that followed Paz's death.

### **Paola Matos**

**Location:** Brooklyn, New York

**Cause of Death:** Strangled, allegedly by Fernando Batista

**Date of Death:** July 22, 2002

**Source:** *The New York Post*, July 23, 2002

**Notes:** Paola Matos had recently moved to New York after a series of transsexual-related surgeries done abroad. She was discovered in her home by her live-in boyfriend with a white cord wrapped around her throat.

### **Terrienne Summers**

**Location:** Jacksonville, Florida

**Cause of Death:** Shot

**Date of Death:** December 12, 2001

**Source:** *Florida Times-Union*, December 14, 2001

**Notes:** Terrienne Summers was a transgender activist in the Jacksonville area, who had been very involved in efforts against discrimination at the Winn-Dixie food chain. She was shot to death on her own front yard days after participating in the 2001 Transgender Day of Remembrance in Florida.

### **Deasha (Gerald Andrews)**

**Location:** Jacksonville, Florida

**Cause of Death:** Shot multiple times

**Date of Death:** August 8, 2002

**Source:** WLTN 12, Jacksonville, Florida

**Notes:** Deasha Andrews was discovered in her car, after having been shot several times.

### **Pilar (Vladimir) Ibáñez Carrasco**

**Location:** Rinconada, Chile

**Cause of Death:** Murdered

**Date of Death:** April 5, 2002

**Source:** *La Cuarta*, April 22, 2002

**Notes:** Pilar (Vladimir) Ibáñez Carrasco met up with an unknown man on a motorcycle on the night of April 5th. Some time thereafter, her body was found floating in a canal in Chile. The president of Traves Chile, a Chilean transgender activism group, counted Pilar as their 23rd murder their group has been involved with.

**Sources:** *New Haven Register*, May 11, 2003

**Notes:** Jessica Mercado was a 24-year-old transwoman. Mercado's body was found draped across her mattress in the charred remains of her apartment. She has been stabbed multiple times before the apartment was set on fire. Mercado was laid to rest in her native Puerto Rico.

## Selena Álvarez-Hernández

**Location:** Council Bluffs, Iowa

**Cause of Death:** Stabbed several times

**Date of Death:** July 31, 2003

**Sources:** *Daily Nonpareil*, August 2, 2003

**Notes:** Álvarez-Hernández was a resident of Nebraska, and worked at an Omaha meatpacking plant, and was last seen alive leaving an Omaha bar. Álvarez-Hernández was found stabbed several times and unconscious on the lawn of a house in Council Bluffs, and was pronounced dead a short time later at a nearby Hospital.

## Dayana Valverde

**Location:** Guatemala City, Guatemala

**Cause of Death:** Shot

**Date of Death:** July 1, 2003

**Sources:** *La Hora*, July 1, 2003 **Notes:** Valverde was shot multiple times in the streets of Guatemala City. Paramedics called to the scene did attempt to stabilize her wounds, but she passed away in intensive care at a local hospital.

## Rider Orcero

**Location:** Milan, Italy

**Cause of Death:** Strangled

**Date of Death:** October 30, 2003

**Sources:** *Il Cittadino*, November 1, 2003

**Notes:** Orcero was a 35-year-old Peruvian national living in Milan, Italy. She was found in her apartment, hogtied and strangled with nearly three yards of cord from a Playstation. Her nose was also broken with an undetermined blunt object, causing a hemorrhage that left blood stains on the bedroom floor.

## Darryl Fearon

**Location:** New York, New York

**Cause of Death:** Stabbed

**Date of Death:** July 16, 2004

**Sources:** *Newsday*, July 16, 2004

**Notes:** The 17 year old victim had come to the aid of three transgender individuals who were being harassed by Christian Soto-Ruiz. Soto-Ruiz stabbed this victim to death with a kitchen knife, and slashed one of the transgender individuals.

## Divas B

**Location:** Portage la Prairie, Manitoba, Canada

**Cause of Death:** Beaten to death

**Date of Death:** November 3, 2004

**Sources:** *CBC*, November 5, 2004

**Notes:** Divas was a 20-year-old transgender woman. She had been living as a woman for many years. Her body was found by a couple of hunters in some brush near a rest stop eight kilometres east of Portage. She had been beaten to death.

## **Robert Binenfeld**

**Location:** Monroe, New York  
**Cause of Death:** Strangled by Jason Bardsley  
**Date of Death:** December 21, 2004  
**Source:** *Times Herald-Record*, August 6, 2005

## **Tyra Hunter**

**Location:** Washington, D.C.  
**Cause of Death:** Received inadequate care from D.C. general hospital, and from the medical team on scene of the accident.  
**Date of Death:** August 8, 1995  
**Source:** Widely reported  
**Notes:** For details on the Wrongful Death / Survivor's action suit brought forth by Tyra's mother

## **Unidentified crossdressed person**

**Location:** Atlanta, Georgia  
**Cause of Death:** Shot to death  
**Date of Death:** December 20, 1992  
**Source:** Dallas Denny of GEA

## **David Perez**

**Location:** San Francisco, California  
**Cause of Death:** Murdered  
**Date of Death:** 1991 (?)  
**Source:** Dallas Denny of GEA  
**Notes:** Case is believed to be unsolved.

## **Logan Smith**

**Location:** Hoffman Estates, Illinois  
**Cause of Death:** Septic shock due to a punctured bladder.  
**Date of Death:** February 22, 1996  
**Source:** *Transgender Tapestry*, Issue #79, Summer 1997  
**Notes:** Police officers kicked Logan in his abdomen and sprayed him with pepper gas, after stopping him for "failure to signal a right turn and failure to display a license plate." Smith had offered no physical resistance. He died later that evening.

## **Alan Fitzgerald Walker**

**Location:** Fayetteville, Arkansas  
**Cause of Death:** Beaten and strangled to death by Adam David Blackford and Yitzak Abba Marta  
**Date of Death:** November 9, 1996  
**Source:** *Southern Voice*, July 24, 1997 and the *Northwest Arkansas Times*, July 11, 1997  
**Notes:** Walker's body was discovered three days after the murder. "KKK" was scrawled in blood on a closet door in Walker's home, and the tires were slashed on Walker's vehicle. Blackford and Marta were both convicted to life in prison.

## **Jose Angel Osuna**

**Location:** San Diego, California  
**Cause of Death:** Shot several times in the chest and stomach  
**Date of Death:** July 2, 1990  
**Source:** *The San Diego Union-Tribune*, December 17, 1990

## Richard Goldman

**Location:** New York City, New York  
**Cause of Death:** Shot and killed by his father, retired state judge Milton Goldman.  
**Date of Death:** December 29, 1991  
**Source:** *St. Paul Pioneer Press*, December 30, 1991  
**Notes:** Richard Goldman was shot to death by his father, who then took his wife Phoebe's life, then his own life. A neighbor indicated that the family was upset with Goldman's crossdressing and "wanted him to 'act normal.'"

## Thomas Hall

**Location:** Wahiawa, Hawaii  
**Cause of Death:** Beaten in the head with a brick by U.S. soldier Anthony Tyrone Biscoe.  
**Date of Death:** August 15, 1996  
**Source:** *Honolulu Star-Bulletin*, August 16, 1996 and August 28, 1996

## Chrissey (Marvin) Johnson

**Location:** Baltimore, Maryland  
**Cause of Death:** Multiple stab wounds delivered by Allen Horton  
**Date of Death:** January 2, 1993  
**Source:** *Cross-Talk* #42, April 1993 and *The Baltimore Sun* January 4, 1993  
**Notes:** Chrissey was found by police naked, with her feet tied together. She had been stabbed at least 15 times and had been thrown from the second floor of her apartment to the first. Horton has told the police four different stories about that evening; one version had Johnson raping Horton.

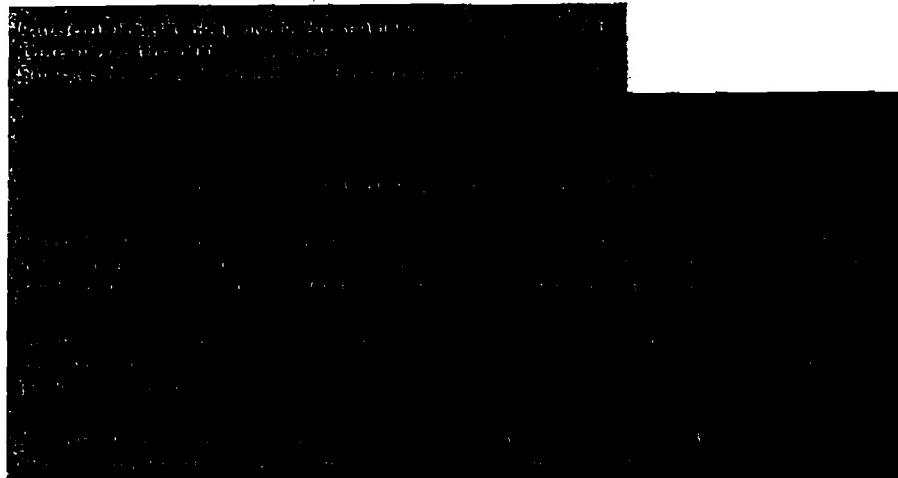
## Venus Xtravaganza

**Location:** New York City, New York  
**Cause of Death:** Murdered  
**Date of Death:** 1989 ?  
**Source:** *Transgender Warriors* by Leslie Feinberg  
**Notes:** Venus appeared in the film *Paris Is Burning*. Died before the film was finished.

## Lazaro Comesana

**Location:** Miami, Florida  
**Cause of Death:** Strangled to death by Rory Enrique Conde  
**Date of Death:** September 17, 1994  
**Source:** *Lexis-Nexis*  
**Notes:** The first of six victims of the "Tamiami Strangler," a serial killer who focused on prostitutes. Lazaro was the only one of his six victims who was transgendered.





## **Anna Francisco**

**Location:** Philadelphia, Pennsylvania  
**Cause of Death:** Stabbed several times in the chest and stomach.  
**Date of Death:** December 22, 1990  
**Source:** Natasha ([Tash515@aol.com](mailto:Tash515@aol.com)) and *Cross-Talk* #25, June 1991.

## **Stephan "Stephanie" Chapman**

**Location:** New York City, New York  
**Cause of Death:** Gunshot wound to the head  
**Date of Death:** December, 1992  
**Source:** [www.godhatestadphelma.com](http://www.godhatestadphelma.com).

## **Ernest "Ernestine" Murray**

**Location:** Oakland, California  
**Cause of Death:** Shot  
**Date of Death:** March 2, 1981  
**Source:** *San Francisco Examiner*, March 3, 1981

## **Unknown Transvestite Prostitute**

**Location:** Bronx, New York  
**Cause of Death:** Beaten and stabbed to death by Augustin Rosado  
**Date of Death:** February 8, 1992  
**Source:** *Orlando Sentinel*, February 9, 1992  
**Notes:** Mr. Rosado, shortly after the murder, jumped to his own death.

## **Reynaldo "Reyna" Sandoval**

**Location:** Oxnard, California  
**Cause of Death:** Shot in the chest and head.



Date of Death: February 26, 1995  
Source: *The Los Angeles Times*, December 30, 1995

## **Christiaan D'Arcy**

Location: Hartford, Connecticut  
Cause of Death: Strangled by Thomas Saltonstall. He also tied up D'Arcy and put him in the trunk of D'Arcy's car, which Saltonstall set on fire.  
Date of Death: January 26, 1993  
Source: *The Hartford Courant*, January 28, 1993 and July 23, 1994  
Notes: Saltonstall, a friend of D'Arcy's, pled guilty of the crime and was sentenced to 32 years in prison.

## **Emmon Bodfish (aka Margaret Ingalls Bodfish)**

Location: Orinda, California  
Cause of Death: Bludgeoned to death with a blunt object  
Date of Death: June 24, 1999 (approximate)  
Source: *San Francisco Chronicle*, July 1, 1999, and the *Contra Costa Times*, July 2, 1999  
Notes: Emmon's son, Maxwell Wills, was found dead from self-inflicted wounds in Santa Monica the day after Bodfish was discovered. The police, though, have all-but-ruled out Max in connection with Emmon's death.

### **FTM Found Dead in Northern California**

Emmon Bodfish, a reclusive female-to-male transperson, was found by police in their Orinda, California home on July 1st. Police are investigating the death as a homicide.

Mr. Bodfish's body was discovered by police, who had been asked by another individual to check the home. They were discovered on the floor in the main part of the house. Police reports point to blunt force trauma as the cause of death, though the murder weapon has been determined. There were no signs of forcible entry, and while the house was in some disarray, the police were unsure if these were signs of struggle and/or ransacking, or just indicators of the upkeep of the house.

While the police have been reluctant to speak about the gender identity of the victim, neighbors have indicated that Bodfish had been living as a male and may have undergone some surgery. Initial reports on this case indicated that the coroner's office was having difficulty determining the gender of the victim, though this may have had more to do with the decomposition of the body — which had been sitting in the home for "about a week" — rather than any other reason.

Bodfish, under their birth name of Margaret Ingalls Bodfish, purchased the home in Orinda, saying that it was for "her son," Emmon. He also owned another residence in Mill Valley.

Anyone with information is urged to contact Sgt. Mark Hale at 925-313-2630, or Sgt. Chris Wenzel at 925-253-4250.

## **Derrick "Miss Tess" Hampton**

Location: Memphis, Tennessee  
Cause of Death: Stabbed and beaten  
Date of Death: October 23, 1993  
Source: *The Memphis Commercial Appeal*, January 2, 1994

## **Sherri Ransom**

**Location:** Morrisville, Pennsylvania

**Cause of Death:** Beaten to death with a hammer by Johnny Fitzpatrick.

**Date of Death:** June 24, 1990

**Source:** *Philadelphia Daily News*, January 17, 1991

**Notes:** Fitzpatrick confessed to the slaying, saying he went to the Ransom's apartment to steal her fur coat.

## **Michelle Byrne**

**Location:** Nashville, Tennessee

**Cause of Death:** Tortured for several hours, beaten to death, and beheaded by Kenneth Poole and Ralph David Frantzreb

**Date of Death:** January 12, 1987

**Source:** *United Press International*, March 30, 1987 and *The Tennessean*, September 13, 1988

**Notes:** Byrne's body, minus its head, hands and feet, was found floating in the Cumberland River. Frantzreb was given a life term.

## **Clyde Massie**

**Location:** Pittsburgh, Pennsylvania

**Cause of Death:** Shot to death by Stephen Orosz Jr.

**Date of Death:** August 15, 1985

**Source:** *United Press International*, July 18, 1986

**Notes:** Stephen Orosz Jr. tried to claim self defense in this case, but the judge rejected Orosz's claim. Orosz was convicted of first-degree murder, which carries a mandatory life sentence.

## **Jane Golden (James Boyd)**

**Location:** St. Petersburg, Florida

**Cause of Death:** Murdered by Steven W. White

**Date of Death:** February 6, 1987

**Source:** *St. Petersburg Times*, December 13, 1987

**Notes:** White was convicted of first-degree murder.

## **Perry Young**

**Location:** New York City, New York

**Cause of Death:** Shot in the head by Ronald Haynes

**Date of Death:** December 21, 1977

**Source:** *New York Times*, December 23, 1977 and March 13, 1980

**Notes:** Young was killed at the same time and William Flood, an off-duty police officer. Ronald Haynes, after three mistrials, was sentenced for both murders.

## **Person dressed in women's clothing**

**Location:** Santa Ana, California

**Cause of Death:** Shot to death

**Date of Death:** July 10, 1993

**Source:** *The Los Angeles Times*, July 12, 1993

## **Yancey-Lisa R.**

**Location:** San Francisco, California

**Cause of Death:** Stabbed once in the abdomen and four times in the back

**Date of Death:** Easter, 1975

**Sources:** *Drag*, Volume 5, Number 19, *the San Francisco Sentinel*, April 10, 1975, and *Crusader*, May 1975

**Notes:** Yancey-Lisa was the neighbor of Barbarella (Joe V.), who was killed within weeks of Yancey-Lisa.

## **Marvin Ball**

**Location:** Oklahoma City, Oklahoma

**Cause of Death:** Gunshot wound

**Date of Death:** 1987 (approximate)

**Sources:** *The Oklahoman*, August 9, 1988 and September 9, 1988

**Notes:** Ball was found about six months to a year after their murder, as the body was in an advance state of decay. They were found at Lake Stanley Draper.

## **Lindsey Alexander (Todd Alexander Asay)**

**Location:** Portland, Oregon

**Cause of Death:** Shot to death, allegedly by Brian David Hill.

**Date of Death:** May, 1989

**Sources:** KOIN Channel 6 and KPTV Channel 12

### **Body Unearthed in Portland: Disappearance Now Considered Solved**

A body, unearthed in the backyard of a southeast Portland home on December 24th, 1999, has been identified by police as that of Todd Alexander Asay, who worked as a female impersonator at Darcelle's Nightclub, under the name of Lindsey Alexander.

Todd/Lindsey was last seen alive in May of 1989, and, due to circumstances surrounding the death, was listed as a homicide victim by Portland police. A phone tip led officers to the remains, located in the yard of a residence on Southeast Hollman Avenue. The Oregon State Medical Examiner's office determined that the remains were, indeed, of Todd/Lindsey.

Police have also already determined a suspect in the case, that being Brian David Hill. Hill is currently in custody for the murder of his ex-wife. The owner of the yard in which the body was found was not linked to the death, according to police.

Todd/Lindsey was 25 years old at the time of the disappearance. They were shot to death.

## **Jill Seidel**

**Location:** Honolulu, Hawaii

**Cause of Death:** Undetermined, see notes

**Date of Death:** February 3, 2000

**Source:** Carolyn Golufuch

**Notes:** Though police, who have been lax to pursue this case, claim this to be a substance abuse case, evidence in the autopsy report indicate that foul play may have played a much larger part than the police wish to admit.

## **A Trans Death In Paradise**

Jill Seidel, a 32-year-old homeless transsexual in Hawaii, died after being discovered, unconscious, in the middle of the night near Aala Park in Honolulu's Chinatown. The cause of death is still undetermined.

Jill, originally from Chicago, faced a large number of obstacles in her life, including an AIDS diagnosis in the 1980s, a drug addiction, and a history of time spent in area psychiatric care for depression.

She was making her life in Hawaii as a prostitute, and was often beaten by pimps for not sharing her profits.

Carolyn Golujuch, a local activist and president of the Honolulu chapter of PFLAG, feels that her death may have been at the hands of these same pimps, who may have had a hand in this death.

"I'm as sure as I can be that this case is connected to a bias or hate crime," Golujuch said.

The local medical examiner's office first listed the case as "natural causes," and, after this was challenged, it was changed to no official cause of death. The Medical Examiner's office listed Seidel's death as a drug overdose, though toxicology reports had not yet been completed.

Some details about the scene of her death, though, add to Golujuch's claim, or at least should open this case up for a second look. A swastika was drawn on her right arm, in lip stick. A curious adornment for a person who had very strong feelings about the Holocaust. Further, her body showed a fresh puncture wound of the right face and a small laceration of the lower portion of the right earlobe with abrasions/ contusions. None of these were considered in the 'Cause of Death.'

Seidel's addiction was not her biggest issue, according to another local transsexual, Tammy Wronski. Seidel's biggest problem was finding acceptance, even in his own mind.

It was Wronski, also from Chicago and facing many of the same life issues as Seidel, who suggested the move to Hawaii, feeling that living in "paradise" would help them stay sober. Seidel found herself unable to change.

"I can't tell you the number of times she would say, 'I'm a freak! I'm a freak!'" said Jerry Ford, assistant director of Gregory House Programs, a Honolulu agency that provides housing for people suffering from HIV and AIDS.

"This is what people would tell her, and I think, deep down, she had trouble accepting herself.

## **Michelle Lynne O'Hara**

**Location:** New York City, New York

**Cause of Death:** Suicide after being brutally beaten and raped

**Date of Death:** March 14, 2000

**Source:** Lynne Smith

**Notes:** Though transgender suicides generally fall outside the scope of this project, I have chosen to include this case due to the circumstances surrounding her death. One can easily assume that Michelle would not have taken her life if not for the rape and beating she suffered.

## **Remembering Michelle**

Michelle was love. She loved her friends, family, the theater, living in New York City, and life. Michelle's smile and warmth were her signature. She was always happy and full of energy. Running and keeping fit was a passion for Michelle. She was so giving and generous as well. Her sense of humor was inspiring. Recently, she had redone her bedroom in a Martha Stewart inspired motif. She took the brunt of many of her friends "ribbing" and would point her finger and say, "Go ahead and make fun. I'm telling Martha! Then we'll see who has the last laugh!"



Michelle could recite the lines and songs of many Broadway shows. She practically lived in the theater! She saw Cabaret 7 times, the Lion King 5 times and many others multiple times. The theater was magical for Michelle.

She always said it energized her after seeing a show.

Recently, Michelle met a wonderful man — Greg. They were well on their way to dating. Michelle would talk to me for hours about him. How nice and gentle his voice was. How their senses of humor were congruent. She talked on the phone for hours with him and afterwards, would recant the conversations with me. Her face would light up and that beautiful smile abounded. Her friend, Barbara, was a confidant and supporter. Barbara encouraged Michelle to take a risk with Greg. She was always there for Michelle with kind words and hugs. After Michelle was assaulted, Barbara and Greg were an endless source of encouragement and support. I will never be able to thank them enough for being in her life.

The beating and rape were the direct cause of her suicide. Prior to that, Michelle was the happiest and most positive person I knew. Afterward, she completely withdrew. She did reach out to friends and her therapist, however, the emotional scars were much deeper than anyone knew. I found her in her apartment after her suicide. I called 911, started CPR without successful resuscitation. She also left two notes. One to me and one to her friend Greg. The note explained her hopelessness. I still cannot bring myself to read it again. This is still all very fresh and upsetting.

The beating and rape occurred randomly as Michelle was walking home from an evening out with a friend. She was followed and pulled into an alleyway. According to Michelle's recant of this horrific tragedy, she said that as soon as the rapist saw she was biologically a male, he began beating and kicking her. He fractured 2 of her ribs, her genitalia were badly bruised and swollen secondary to his kicks. Her rectum was ripped secondary to the rape and required several stitches. Her right eye was badly bruised. He left her badly beaten and terrified. She laid in the alleyway for several hours until a passerby heard her and assisted her until the ambulance arrived. She was taken to the hospital and was treated with indifference by the hospital staff because of her transgendered status. The police were also less than empathic. To this day, no follow-up has occurred by the police — to my knowledge. So yes, Michelle was raped, beaten, treated horribly by hospital personnel and the police because of her transgendered status. I am outraged by it all!

Dear Michelle, we will never forget you. You have left a void in our lives. Our hearts are broken.

In the words of Mother Teresa: "Yesterday is gone. Tomorrow is yet to come. We have only today. Let us begin to heal."

## Tyra Henderson

Location: Washington, D.C.  
Cause of Death: Bludgeoned to death  
Date of Death: April 23, 2000  
Source: Transgender Nation Washington

### Another Tyra

In the early morning hours of Easter Sunday, Tyra Henderson, a 22-year old African-American transgendered person, was found murdered in the 3600 block of 13th Street in Northwest Washington. She had been bludgeoned to death. There were reports that her body was mutilated (her breasts were slashed and her penis cut off) but the Metropolitan Police Department (MPD) has denied them. Earlier that night she had been working the 5th Street NW corridor. A friend reported her missing after she did not return from a date.

A 911 call was made at 4 a.m. Sunday morning, reporting a woman yelling, "help, help, call the police" from the 3600 block of 13th Street NW. According to MPD, officers from the Metropolitan Police Department's 4th District responded, saw nothing and left. Two hours later, the 911 caller, having not seen the any police, called 911 a second time to report a body outside of her house. An ambulance finally responded, but Tyra Henderson was already dead.



The Metro Section of the Washington Post, following its usual pattern of excreable coverage of transgendered people, erased the victim's transgender identity in a story on Monday, April 24. Despite evidence of overkill, the MPD has labeled this a pick-up murder and not a hate crime, and have stated they have no suspects in the case at this time.

The Gay and Lesbian Activists Alliance (GLAA) has asked the police to investigate why the police failed to respond appropriately to the first 911 call. The ACLU National Capital Area has been contacted by the family and is looking into the case. Despite reports of MPD harassment, GLAA will continue to monitor the case and work with the police.

A candlelight vigil for Tyra Henderson, held Friday night, April 28 at 6th & K Streets NW drew over a hundred people, including family members, friends, and many transgendered people, and was sponsored by GLAA, HIPS (Helping the Individual Prostitute Survive) GLAAD and Transgender Health Empowerment (THE -- formerly known as TADD).

## **Dinh Van Vo**

**Location:** Honolulu, Hawaii  
**Cause of Death:** Strangled by Demian McGuire  
**Date of Death:** September 6, 1993  
**Source:** *Honolulu Star-Bulletin*, December 5, 2000  
**Notes:** McGuire was sentenced to 10 years in prison, for manslaughter.

## **Antonio Johnson**

**Location:** Dallas, Texas  
**Cause of Death:** Shot  
**Date of Death:** April 10, 2001  
**Source:** Monica Helms  
**Notes:** Johnson was the third Texas death in 2001.

## **Jamie (James) Jackson**

**Location:** Washington, D.C.  
**Cause of Death:** Beaten to death in her own doorway  
**Date of Death:** November 21, 2001  
**Source:** Jessica Xavier  
**Notes:** Jackson was a member of Transgender Health Empowerment, a D.C.-area African-American support group. Jackson's death has yet to be officially reported as a homicide by the DC Metropolitan Police.

## **Alejandro Ray Lucero**

**Location:** Phoenix, Arizona  
**Cause of Death:** Murdered  
**Date of Death:** March 3, 2002  
**Source:** Phoenix, Arizona police report  
**Notes:** Little is known about the death of Alejandro Ray Lucero, aside from the fact that she was murdered in Phoenix, and her body was dumped in the alley.

## **Ukea Davis**

**Location:** Washington, DC  
**Cause of Death:** Shot multiple times  
**Date of Death:** August 12, 2002

**Source:** WJLA ABC 7, Washington, DC

**Notes:** Ukea was killed at the same time as Stephanie Thomas. Ukea and Stephanie were friends living in Washington, D.C., and had begun living in their preferred gender roles. Both were shot multiple times in a car they often shared. They were half a block away from home. Anyone with information about this crime is asked to call (202) 727-9099. There is a \$10,000 reward available.

## **Kim Mimi Young**

**Location:** Washington, D.C.

**Cause of Death:** Stabbed to death, allegedly by Corena Niko Watkins.

**Date of Death:** April 9, 2003

**Source:** Jessica Xavier

**Notes:** Mimi was a transgendered sex-worker in Washington, D.C., and had also been a key prosecution witness in a murder trial in 2000. She was initially found on the 9th, gasping for air, by a D.C. resident. She had been stabbed, and succumbed to those injuries later that morning. 34-year-old Watkins has been charged with this murder.

## **Cinnamon (Kendrick) Perry**

**Location:** Houston, Texas

**Cause of Death:** Shot to death

**Date of Death:** July 20, 2003

**Source:** *The Houston Chronicle*, July 20, 2003

**Notes:** Perry, a 32 year old African-American, was shot by a passing car while walking down a street in the Montrose area in Houston shortly after dawn. She was taken to a local hospital, but died that afternoon

## **Bella Evangelista**

**Location:** Washington, D.C.

**Cause of Death:** Shot, allegedly by Antoine Jacobs

**Date of Death:** August 16, 2003

**Source:** *Washington Post*, August 18, 2003

**Notes:** Bella Evangelista was a popular entertainer in D.C., and periodically performed at Club Chaos. She was shot multiple times at close range. Antoine D. Jacobs has admitted to the murder, but claims it was in self-defense. Police do not believe his story, and are treating this murder as a hate crime.

## **Erika Johana**

**Location:** Rome, Italy

**Cause of Death:** Bludgeoned

**Date of Death:** October 10, 2003 (approximate)

**Source:** *Corriere della Sera*, October 15, 2003

**Notes:** Johana was a young Colombian transgendered woman living in Italy. Her body was found by a friend in the bathroom, in only a bra and slip, leaning over the tub. Her skull was shattered by a blunt object. She had been dead for several days before she was discovered.

## **Reshae McCauley**

**Location:** Largo, Florida

**Cause of Death:** Severe upper body trauma

**Date of Death:** December 7, 2003

**Source:** *St. Petersburg Times*, December 9, 2003

## **Joel Robles**

**Location:** Fresno, California  
**Cause of Death:** Stabbed  
**Date of Death:** August 15, 2004  
**Source:** KFSN, August 16, 2004  
**Notes:** Estanislao Martinez is being held by police for this murder.

## **Ryan Shey Hoskie**

**Location:** Albuquerque, New Mexico  
**Cause of Death:** Undetermined; body did show signs of upper body trauma.  
**Date of Death:** December 27, 2004  
**Source:** *Albuquerque Tribune*, January 8, 2005

## **Eddie "Michelle" Chung Chou Lee**

**Location:** Daly City, California  
**Cause of Death:** Multiple stab wounds  
**Date of Death:** March 1, 2005  
**Source:** *San Mateo County Times*, March 1, 2005

## **Kasha Blue, aka Antonio Wright, aka Sydney**

**Location:** Chicago, Illinois  
**Cause of Death:** Stabbed  
**Date of Death:** June 18, 2005  
**Source:** *Chicago Sun-Times*, June 22, 2005

## **Kaaseem Adalla Juanda**

**Location:** Glenwood, Iowa  
**Cause of Death:** Shot to death  
**Date of Death:** October 17, 2005  
**Source:** *Council Bluffs Daily Nonpareil*, October 22, 2005  
**Notes:** Juanda was a 60 year old, post-operative transsexual woman who had been living in Kansas City, Kansas. On October 17, 2005, her body was found near a rest stop on Interstate 29 outside of Glenwood, Iowa. There was initially some suspicion that her death was a suicide, but additional details have caused police to suspect a homicide. If you have any information on this murder, please contact the Iowa Division of Criminal Investigation at (712) 322-1585 or the Mills County Sheriff's Office at (712) 527-4871.

## **Harvey Aberles**

**Location:** New York City, New York  
**Cause of Death:** Shot by NYPD  
**Date of Death:** 1975  
**Source:** *Drag Magazine*, Volume 6, Number 24  
**Notes:** Aberles was a decorated hero of the Vietnam War.

## **Anthony Swain**

Location: Atlanta, Georgia  
Cause of Death: Shot to death  
Date of Death: November 8, 1992  
Source: Dallas Denny, GEA

## **Michelle Maree (aka Michelle Hays, Joe Michael Hays)**

Location: Memphis, Tennessee  
Cause of Death: Shot in the chest  
Date of Death: November 5, 1990  
Source: Dallas Denny of GEA and *Cross-Talk* #25, June 1991  
Notes: Michelle won Miss Gay Memphis in 1974

## **Jae Stevens**

Location: San Francisco, California  
Cause of Death: Five stab wounds, three directly to the heart.  
Date of Death: June 24, 1974  
Source: *Drug Magazine*, Volume 4, Number 16

### **Jae Stevens: 1974, Contemporary**

Sometimes when you look into the past, you find tales that echo events of today, such as the case of the murder of Jae Stevens.

Stevens, born in 1947, was an accomplished drag performer in San Francisco, having started her performing career in 1967, at "The Fantasy," a club that was then on Mason Street. She then went on to the famed Finocchio's club and played the cabaret circuit in San Francisco and Los Angeles.

She seemed well-loved by her SF peers, who spoke of her, in memory, as a good friend, with a "great ability to find humor in any situation." A good example would be when, in 1970, she attended a gala charity benefit in drag, and won the grand prize in a contest at the event, only then revealing herself to be a female impersonator. This, as was reported, upset "the socially prominent judges no small degree."

On the night of June 24th, 1974, a resident from near Golden Gate Park heard cries for help, and the morning of the 25th, Jae's body was discovered near Spreckels Lake. She had been stabbed five times, three of which went directly into her heart.

Two hours before the body was found, a suspect had been seen driving Ms. Stevens' car in Hayward, in an area then known for a high incidence of rape attacks. The suspect escaped, after crashing the car into a house. I was unable to find any information that would lead me to believe that any suspect was ever caught and tried.

How is this story contemporary? As of this writing, another transperson has recently passed on in Austin, Texas, of multiple stab wounds. Others have died in Boston, and California, in the same pattern. And police are still not finding our murderers. It seems to be an established pattern, spanning from at least 1974 to the present.

This pattern needs to break. Not just for the Brandon Teenas and Rita Hesters with whom we are familiar with today, but for the Jae Stevens and others in our past.

## **Mara Duvouw**



**Location:** New York City, New York  
**Cause of Death:** Murdered  
**Date of Death:** 1995  
**Source:** Rosalynne Blumenstein, GIP  
**Notes:** This case was officially labeled a "suicide," though most in the community have suspected it to be a murder.

## **Chanel Chandler**

**Location:** Clovis, California  
**Cause of Death:** Stabbed to death, allegedly by Christopher Joseph Lopez and a 16-year-old friend.  
**Date of Death:** September 20, 1998  
**Source:** *NYF*, 11/98 and *The Fresno Bee*, December 15, 1998

### **In Memory Of One Of Us**

Chanel Chandler was one of the transgendered people you don't hear about.

She was raised in a conservative Montana family. She was living a successful life, and had started a perfume business, and was respected and admired by people around her. Charlie Gilbert, a close friend of hers, said of her "I wouldn't be surprised if she was wealthy in 10 years. She had that energy and drive."

From the few accounts we have, she lived "stealth" — her roommate and close friends of hers didn't know she was transsexual. When all is said and done, her attempts to live a normal life were ended far too quickly.

In the end, she was not given an ounce of respect by her murderers — the last people to see her on this earth. Her murderers set fire to the apartment she was killed in, probably to make the murder appear like another type of crime, according to police.

Many of us live our lives quietly — just like most people. We go to work, we have our dreams, our friends, and our lives. And no matter how much we try to live those lives, and frequently even hide our transness out of an all-too-justifiable fear of repercussions, we are murdered at an astonishing rate. We need to remember the quiet faces — the ones who barely make it into the news, and frequently only after some barbaric atrocity like this occurs. Raising our voices in anger and indignation for the dead — our dead, for Chanel could easily be one of us — gives breath to the vision that this should never happen again.

In memory of Chanel Chandler, another trans person taken from us.

## **Monique Rogers**

**Location:** Boston, Massachusetts  
**Cause of Death:** Drowned  
**Date of Death:** August 3, 1986  
**Source:** *Gay Community News*, August 24, 1986  
**Notes:** Monique was pulled out of Boston Harbor during a series of gay- and trans-bashing incidents in the city. It is likely that this is the case referred on some other websites as "Mary S."

## **Robert H. Jones**

**Location:** New Castle, Delaware  
**Cause of Death:** Stabbed to death by Ronald Taltoan  
**Date of Death:** October 15, 1997  
**Source:** Renaissance Delaware Chapter  
**Notes:** Ronald Taltoan pled guilty, and was given a 10-year manslaughter sentence.



## **Lisa Janna Black**

**Location:** Toronto, Ontario, Canada

**Cause of Death:** Struck 20 times with a hammer by Synthia Kavanagh, her roommate and another transsexual. Kavanagh also stuck a knife into one of Black's eyes. Brian Inch was reported as beating and stabbing Black.

**Date of Death:** March 2, 1987

**Sources:** *Metamorphosis*, Volume 6, Number 1-2, January - April 1987 and the *Toronto Sun*, March 3, 1987.

**Notes:** Brian Inch was sentenced to seven years in prison after pleading guilty to manslaughter. Synthia Kavanagh was given a life sentence in this crime, and was sentenced to Kent Institution, a maximum-security, men's prison in British Columbia.

## **Donald Pierce**

**Location:** San Diego, California

**Cause of Death:** Struck by a car driven by Fred Ray Beloff and dragged about 50 feet.

**Date of Death:** September 4, 1990

**Sources:** *The Los Angeles Times*, September 17, 1990 and *The San Diego Union-Tribune*, December 17, 1990

**Notes:** Beloff, a minister for the homeless, was arrested, but the district attorney's office decided not to file a murder charge.

## **Peggy Santiago**

**Location:** South Bronx, New York

**Cause of Death:** Murdered

**Date of Death:** 1989

**Source:** *The Page of Rage*

**Notes:** This is Jessy Santiago's sibling. Jessy was killed three years later, in the same area.

## **Grayce "Candace" Baxter**

**Location:** Toronto, Ontario, Canada

**Cause of Death:** Choked to death by Patrick Daniel Johnson, who then dismembered the body into several parts with a hacksaw.

**Date of Death:** December 8, 1992

**Source:** *Toronto Star*, April 20, 1994

**Notes:** Patrick Daniel Johnson pled guilty and was sentenced to life in prison with no chance of parole for at least 10 years. Additional information may be found on this "In Memoriam" Page to Grayce.

## **Lynn Montana**

**Location:** Washington, D.C.

**Cause of Death:** Burn wounds

**Date of Death:** 1997

**Source:** Natasha ([Tash515@aol.com](mailto:Tash515@aol.com)) and *The Washington Post*, January 29, 1997

**Notes:** Lynn died in police custody of severe burns inflicted on her by her boyfriend. He died in the fire and, because she lived, she was accused by the police of setting him on fire.

## **Unknown person wearing women's clothing**

**Location:** Houston, Texas

**Cause of Death:** Shot in the abdomen

**Date of Death:** February 25, 1999  
**Source:** Katrina C. Rose and KPRC Channel 2

## **Unknown person dressed in women's clothing**

**Location:** Oakland, California  
**Cause of Death:** Blows to the head and face  
**Date of Death:** July 10, 1995  
**Source:** *The San Francisco Chronicle* July 11, 1995

## **Donnie O. Osby**

**Location:** Orlando, Florida  
**Cause of Death:** Shot in the chest with a .45-caliber handgun by Keith Neil Washington  
**Date of Death:** August 17, 1993  
**Source:** *Orlando Sentinel*, August 19, 1993



## **Ruby Bota**

**Location:** Gibsonton, Florida  
**Cause of Death:** Unknown  
**Date of Death:** 1988  
**Source:** GenderPAC

### **Ruby Bota Murder Case Closed**

As reported in the Tampa Tribune, the Hillsborough County Sheriff's Department has closed the case on Ruby Bota, a transwoman killed in 1988. Ruby's body was discovered in May of this year in Gibsonton, Florida.

The case was closed because officials claim to not be able to prove that Bob Bota, Ruby's husband who has all-but-admitted to the killing, actually killed her. The statute of limitations for other felonies and misdemeanors involved in this case has run out.

Although Bob Bota admitted that he had struck Ruby with his elbow, he claims that he later found her dead, and then buried her body. He contends that a "mysterious black limo" spotted at a local convenience store prior to her death had some involvement. Bota had at first denied hitting Ms. Bota.

After her passing he not only buried Ruby, but also had many of her belongings and her Airstream Travel trailer buried on the same plot. No missing persons report had ever been filed on Ruby, and Bob Bota had initially told Ruby's friends that she had "left with some socialites in a limo and was planning to live in Italy."

Bota's Body was discovered wrapped in plastic bags and tied with electrical cords. No murder weapon was found, though there were small pieces of glass found in the front part of Ruby's brain. The medical examiner ruled Ruby's death "homicidal violence of an undetermined type."

## **Jacqueline Julita Anderson**

**Location:** Portland, Oregon

**Cause of Death:** Shot in the head with a shotgun by Eric Walter Running

**Date of Death:** February 24, 1998

**Sources:** *Los Angeles Times*, February 28, 1998

**Notes:** Stories of this case call Anderson a "bearded woman," which is not uncommon in articles of FTM murders. Anderson was killed at the same time as their lover of 10+ years, Barbara J. Gilpin.

## **Unknown person wearing women's clothes**

**Location:** Miami, Florida

**Cause of Death:** Shot to death

**Date of Death:** 1984

**Source:** *The Miami Herald*, January 10, 1985

## **Chiron Collins (Allen Kenneth Byrd)**

**Location:** Philadelphia, Pennsylvania

**Cause of Death:** 42 stab wounds to the head, neck, face, and arm by Theodore Roebuck

**Date of Death:** May, 1984

**Source:** *Philadelphia Daily News*, May 4, 1985

**Notes:** Theodore Roebuck was convicted of murder, and sentenced to a 40-year state prison term.

## **Tianna (Timothy) Langle**

**Location:** Philadelphia, Pennsylvania

**Cause of Death:** Shot once in the back of the head

**Date of Death:** March 1, 1985

**Source:** *Philadelphia Daily News*, April 3, 1995

## **Juaquin Jiminez**

**Location:** New York City, New York

**Cause of Death:** Beaten to death, allegedly by Richard Davella

**Date of Death:** October 1, 1989

**Source:** *United Press International*, October 1, 1989

**Notes:** Davella told police that Jiminez died of a drug overdose, in spite of evidence to the contrary. Davella was charged with second-degree murder in the case.

## **Jessica (Gerardo) Castillo**

**Location:** New Brunswick, New Jersey  
**Cause of Death:** Shot in the head by Felix Rodriguez Diaz and Pedro Juan Concepcion  
**Date of Death:** October 7, 1985  
**Source:** *United Press International*, October 10, 1985 and April 8, 1988  
**Notes:** Not only was Jessica murdered by Diaz and Concepcion, but Maria Luisa Castillo Perez, age 7, and James Chapelle, who lived at the same home as Jessica, were killed.

## **Terry Wilson**

**Location:** New York City, New York  
**Cause of Death:** Stabbed to death, allegedly by Warren Yaeger  
**Date of Death:** December 25, 1981  
**Source:** *United Press International* December 30, 1981  
**Notes:** Yaeger had previously been convicted of killing a non-transgendered woman in December 24, 1957. A reporter noticed similarities between the cases, and tipped off the police.



## **Dion Webster**

**Location:** New York City, New York  
**Cause of Death:** Knife wound to the head  
**Date of Death:** November 4, 1996  
**Source:** *Associated Press*, August 28, 1999

## **Yamile (Jorge) Lee**

**Location:** San Diego, California  
**Cause of Death:** Stabbed in the back with a large butcher knife, allegedly by Luis Garces  
**Date of Death:** December 4, 1997  
**Source:** Just Evelyn and *The San Diego Union-Tribune*, December 5, 1997

## **Chareka Keys**

**Location:** Cleveland, Ohio  
**Cause of Death:** Blunt trauma to the head  
**Date of Death:** September 27, 1999  
**Source:** *Gay People's Chronicle*, October 8, 1999

### **Transwoman Killed in Cleveland**

According to a source with the "Gay People's Chronicle," the body of Chareka Keys, a transgendered woman, was found on a loading dock at the corner of Central and 69th streets in Cleveland Ohio on the morning of September 27th.

Although details are sketchy at this time, police have listed this as a murder, and give the cause of death to be blunt force trauma to her head. There are, as of yet, no suspects in this murder. The Cleveland police are looking for any information about this case that they can get, and the homicide department can be contacted at 623-5464.

## Unnamed Infant with Ambiguous Genitalia

**Location:** Dallas, Texas

**Cause of Death:** Blunt force trauma to the head, as well as strangulation, allegedly by the child's mother, Aruna Kavill.

**Date of Death:** December 8, 1999

**Source:** *The Dallas Morning News*, February 12, 2000

### Ambiguous Genitalia Leads To Infant's Death

In an evolving case in Dallas, Texas, a mother has been charged with killing her own child on December 8, 1999, simply because the child was born with ambiguous genitalia.

The baby was three days old, and died of blunt force trauma to the head, as well as strangulation.

Investigators were initially told that, while Gangaudaya Kavali, the father, was at the store, and his wife, Aruna Kavill, was in the bathroom, a stranger entered the apartment, grabbed the newborn from a couch and threw him outside.

Dallas police have concluded that this was not the case, noting that their investigation has shown that the newborn was dead only three hours after his parents brought him home from the hospital. Further, physical evidence did not support the couple's account.

A Collin County Medical Examiner also found shards of glass in the baby's esophagus and small intestine, possibly indicating that someone initially tried to kill the child by forcing them to eat glass, in an effort to cause internal bleeding.

Investigators from Child Protective Services, who have custody of the parents 2-year-old daughter, have indicated that she appears to have knowledge of her siblings death.

Detectives won't speculate whether Aruna Kavill allegedly killed her child because she was ashamed, or because she was pressured into doing so by her husband.

Mr. Kavali has not been charged.

## Delores Mack

**Location:** Hahnville, Louisiana

**Cause of Death:** Strangled

**Date of Death:** February 22, 1993

**Source:** *The Associated Press*, August 17, 1999 and *The Times-Picayune*, August 27, 1995

**Notes:** Mack was part of a series of murders, by an individual who reportedly would inject his victims with drugs, have sex with them when they were unconscious, and then kill them before dumping their body.

## Carla Natasha Hunt

**Location:** Suitland, Maryland

**Cause of Death:** Single gunshot wound to the head



**Date of Death:** May 15, 2000  
**Source:** *The Washington Blade*, May 26, 2000

## **Amanda Milan**

**Location:** New York City, New York  
**Cause of Death:** Throat slashed by Dwayne McCuller  
**Date of Death:** June 18, 2000  
**Source:** Anonymous  
**Notes:** According to one report, several of the yellow cab drivers parked along the street cheered and applauded as Amanda bled to death. In exchange for pleading guilty, McCuller was promised a sentence of seventeen and a half years in prison, plus five years supervised release.

## **Chris Muzett (Eddie Matthews)**

**Location:** Detroit, Michigan  
**Cause of Death:** Strangled with a phone cord  
**Date of Death:** February 20, 1999  
**Source:** Anonymous and the *Detroit Free Press*, January 21, 2000

## **Brandi Houston**

**Location:** Houston, Texas  
**Cause of Death:** Murdered, allegedly by Richard Masterson  
**Date of Death:** January 26, 2001  
**Source:** Houston Imperial Court

## **Daniel Phillip "Danielle" Redding**

**Location:** Daytona Beach, Florida  
**Cause of Death:** Single gunshot wound to the head, allegedly by Jason Lee Starkey  
**Date of Death:** September 7, 2002  
**Source:** *Daytona Beach News-Journal*, September 23, 2002 **Notes:** Redding worked at a hair salon by day, and as a sex worker in the evening. He was found face down with a bullet hole in his head in a vacant lot near a church. The alleged killer, Jason Lee Starkey, was shot and killed two weeks later.

## **Joseph Moran**

**Location:** Redwood City, California  
**Cause of Death:** Stabbed by Richard Mroczko  
**Date of Death:** 1974  
**Source:** *The Advocate*, November 6, 1974

## **Timothy "Cinnamon" Broadus**

**Location:** Fort Lauderdale, Florida  
**Cause of Death:** Shot multiple times  
**Date of Death:** January 8, 2003  
**Source:** *South Florida Sun-Sentinel*, January 8, 2003  
**Notes:** Broadus, a 21 year old transgendered sex worker, was shot several times by the driver of a Honda Civic or Accord. She ran a few steps from the car, collapsed, and died on the street. Very little else has been reported in this case.

## Hendricks Thomas aka Tanesha Starr

**Location:** Birmingham, Alabama

**Cause of Death:** Stabbed multiple times

**Date of Death:** May 22, 2003

**Source:** *Birmingham News*, May 28, 2003

**Notes:** Hendricks Thomas was a drag performer who also went by Tanesha Starr. Thomas was found stabbed and died in route to the hospital. A \$2000 reward has been offered for information on this case. Any information concerning this homicide should be reported to the Northside Precinct of the Birmingham Police Department, Detective Division, at (205) 254-2860

## Nireah Johnson

**Location:** Indianapolis, Indiana

**Cause of Death:** Shot to death by Paul Anthony Moore

**Date of Death:** July 22, 2003

**Source:** *Indianapolis Star*, July 26, 2003

**Notes:** Nireah Johnson, a 17-year-old African-American transwoman, was known for being sweet and funny. Her and a friend, 18-year-old Brandie Coleman, were shot in the head while sitting in a SUV. The murderer, Paul Anthony Moore, then set the truck on fire. Their bodies were burnt beyond recognition. Paul Anthony Moore was found guilty of murder and sentenced to 120 years in prison.

## Emonie Kiera Spaulding

**Location:** Washington, D.C.

**Cause of Death:** Shot, allegedly by Antwan D. Lewis. Emonie also had severe head wounds.

**Date of Death:** August 20, 2003

**Source:** WMAR, August 21, 2003

**Notes:** 25-year-old Emonie Kiera Spaulding was from Massachusetts and North Carolina, and had been living in D.C. for about two years. According to her Uncle, Spaulding loved music as a child and sang in a church choir. Her partially nude body was discovered by police in a field. She had been shot but also had severe head wounds. Another transgendered woman was brutally attacked the same evening as Spaulding, and a memorial to the recently-murdered *Bella Evangelista* was also destroyed that night. It is unknown if these are connected with Spaulding's death

## Cassandra "Tula" Do

**Location:** Toronto, Ontario, Canada

**Cause of Death:** Strangled

**Date of Death:** August 26, 2003

**Source:** Toronto Police Department, August 26, 2003

**Notes:** Cassandra Do, or "Sandra" as her friends knew her, was working as a sex-worker under the pseudonym "Tula" in Toronto, saving up for genital surgery and nursing school. She had many friends. She was found in her 11th-floor apartment. An autopsy concluded that she was strangled to death. Cassandra is no relation to Carolyn Cossey, also known as "Tula," and famous for her modeling work as well as an appearance as a "Bond Girl."

## Mickey Ward-El Smith

**Location:** Washington, D.C.

**Cause of Death:** Shot ten times

**Date of Death:** March 3, 2004

**Source:** Jessica Xavier

**Notes:** Smith was 19-years-old

## **Cedric Thomas**

Location: Baton Rouge, Louisiana

Cause of Death: Shot multiple times

Date of Death: June 5, 2004

Source: *The Advocate* (Newspaper), June 8, 2004

Notes: Thomas was shot several times on May 18th, and finally succumbed to those wounds on the 5th

## **Bella Martinez**

Location: Los Angeles, California

Cause of Death: Shot

Date of Death: August 28, 2004

Source: GLAAD

Notes: Martinez was 24 years old

## **Donathyn J. Rodgers**

Location: Cleveland, Ohio

Cause of Death: Shot multiple times

Date of Death: November 15, 2005

Source: Lesbian-Gay Community Service Center of Greater Cleveland

Notes: Rodgers identified as a male to female transsexual, and had participated in events at the Lesbian-Gay Community Service Center of Greater Cleveland. Rodgers was also a sex worker, and was working near Max Hayes High in the early morning hours of November 15th. She was shot in the head by one of two assailants, and when she ran, she was shot several additional times. Anyone with information is asked to call homicide detectives at (216) 623-5464.

## **Julio Argueta**

Location: Miami, Florida

Cause of Death: Stabbed twelve times; allegedly by John Valdespino

Date of Death: May 16, 2005

Source: WPLG, May 31, 2005

Notes: If you have any information on this murder, please contact the Miami Police Department at (305) 579-6530.

## **Lisa D.**

Location: Dorchester, Massachusetts

Cause of Death: Shot to death

Date of Death: September 17, 2005

Source: *Boston Herald* September 20, 2005

Notes: Lisa was 42 years old, and was found dead near a local Stop n Shop.

## **Amancio "Delilah" Corrales**

Location: Yuma, Arizona

Cause of Death: Violent trauma

Date of Death: May 6, 2005

Source: *Yuma Sun*, May 7, 2005

Notes: If you have any information on this murder, please contact lead Detective Raul Garcia at (928) 783-4427.

## Phool Chand Yadav

Location: Lucknow, India  
Cause of Death: Murdered  
Date of Death: March 17, 2005  
Source: *Hindustan Times*, March 18, 2005  
Notes: Once Yadav's murderers discovered that he was biologically female, he was raped and murdered.

## Karlien Carstens

Location: Okahandja, Namibia  
Cause of Death: Strangled  
Date of Death: February 16, 2005  
Source: *Afri News*, February 16, 2005  
Notes: Eyewitnesses at the scene said that Carstens was tied up with cords cut off of electrical appliances, with one cord tied tightly around her neck.

## Precious Armani

Location: Atlanta, Georgia  
Cause of Death: Shot in the Head  
Date of Death: February 29, 2004  
Source: *The Associated Press*, March 1, 2004

## Michael Charles Hurd

Location: Houston, Texas  
Cause of Death: Shot to death  
Date of Death: June 18, 2003  
Source: *Houston Chronicle*, June 18, 2003  
Notes: Little information has been provided on this case, other than that Hurd was found shot to death in a car, and was found wearing a wig, makeup, and feminine attire.

## Jorge Rafael Cruz

Location: Guatemala City, Guatemala  
Cause of Death: Murdered  
Date of Death: March 25, 2003  
Source: *Guatemala Hoy*, March 26, 2003  
Notes: Several individuals dumped Cruz's body in Guatemala City. Local authorities do not expect that they will be able to find Cruz's murderers, as transgendered people in the area are known to have "many enemies." Cruz was 19 years old.

## Brandie Coleman

Location: Indianapolis, Indiana  
Cause of Death: Shot to death by Paul Anthony Moore  
Date of Death: July 22, 2003  
Source: *Indianapolis Star*, July 26, 2003  
Notes: 18-year-old Brandie Coleman, while not a transgendered woman herself, was a close friend to Nireah Johnson, and was also shot in the head while sitting in Coleman's mother's SUV with Ms. Johnson. She had recently become a mother just two months prior to the murder. Paul Anthony Moore was found guilty of murder and sentenced to 120 years in prison.



## **Merlinka (Vjeran Miladinovic)**

**Location:** Belgrade, Serbia

**Cause of Death:** Beaten to death

**Date of Death:** March 22, 2003

**Sources:** *Politika*, May 20, 2003

**Notes:** Merlinka, also known as Vjeran Miladinovic, was known as the first out transwoman in Serbia. She wrote a book, *Terezins' Son*, and had been in two Serbian films. She was murdered in Belgrade on March 22nd, and her body was found a month later. Two men, one of whom is a minor, have been arrested in this case.

## **Nikki Nicholas**

**Location:** Green Oak Township, Michigan

**Cause of Death:** Shot to death

**Date of Death:** February 21, 2003

**Sources:** *Ann Arbor News*, February 25, 2003

**Notes:** Nikki Nicholas was a 19-year-old African-American transwoman. She was making a living as a female impersonator at nightclubs around Detroit, and was well-known for her impersonations of singer Beyoncé. Her body was discovered during a routine property check of an abandoned farmhouse.

## **Porfiro Mejia (aka Daisey, Flora Blanca)**

**Location:** Delano, California

**Cause of Death:** Blunt force trauma to the head

**Date of Death:** August 20, 2002

**Sources:** *The Bakersfield Californian*, October 25, 2002

**Notes:** Little is known about this death. Mejia, a transwoman, used to frequent some of the bars in the Delano area. She was found in a grape vineyard just south of Delano. Anyone with information on this apparent homicide is asked to call Secret Witness at (661) 322-4040.

## **Stephanie Thomas**

**Location:** Washington, DC

**Cause of Death:** Shot multiple times

**Date of Death:** August 12, 2002

**Sources:** WJLA ABC 7, Washington, DC

**Notes:** Stephanie was killed at the same time as Ukea Davis. Stephanie and Ukea were friends living in Washington, D.C., and had begun living in their preferred gender roles. Both were shot multiple times in a car they often shared. They were half a block away from home. Anyone with information about this crime is asked to call (202) 727-9099. There is a \$10,000 reward available.

### **The Death of Stephanie and Ukea**

In the early morning hours of Monday, August 12 Stephanie (Wilbur) Thomas, age 19, was driving her friend Ukea (Deon) Davis, age 18, home in South East Washington, DC. Thomas has just purchased her Toyota Camry a few weeks ago. A car drove up beside them, and a gunman fired shots from an automatic weapon. The gunfire killed Ukea Davis and critically wounded Stephanie Thomas.

According to an eyewitness report, another car drove up after the shooting, and an unidentified man got out and walked up to the driver's side of Thomas' Camry. The man pushed Thomas' shoulder to see if she was still alive. Thomas moaned in pain, but the man fled upon hearing the first car return. The gunman then got out of the first car and fired additional shots into Thomas' car, killing her.

The two young transgendered women were members of Transgender Health Empowerment, an African-American transgender support group coordinated by Earline Budd. They also may have been members of the Teen Divas of the Sexual Minority Youth Assistance League (SMYAL) although that has not yet been confirmed.

Whether or not the DC Metropolitan Police Department (MPD) will investigate this gruesome double homicide as a hate crime remains to be seen, but the assailants' return to the scene to fire additional shots does seem to indicate an overkill factor common in many murders of transgendered people in the U.S.

## **Amy (Raymond) Soos**

**Location:** Phoenix, Arizona

**Cause of Death:** Murdered

**Date of Death:** February 16, 2002

**Sources:** Phoenix, Arizona police report

**Notes:** Amy Soos lived all her life on the Salt River Pima Indian Reservation in Arizona, but often went into Phoenix in the evenings. After not returning home one such night, her body was discovered in a roadway. She died of multiple blunt force trauma. She had been beaten many other times before her death.

## **Bibi Barajas (Hugo César Barajas)**

**Location:** Houston, Texas

**Cause of Death:** Shot multiple times

**Date of Death:** January 26, 2002

**Sources:** KTRK News and Vanessa Foster

**Notes:** Bibi Barajas was a sex worker in Houston, after coming over the border from Mexico. She is believed to have been killed by some of her customers, who dumped her body near a local club.

## **Robert Martin**

**Location:** Ashburn, Georgia

**Cause of Death:** Severely beaten

**Date of Death:** April 3, 2001

**Sources:** Monica Helms

**Notes:** Martin was beaten on January 7, and laid in a semi-coma state in the hospital until his death.

## **James Jerome Mack**

**Location:** Buffalo, New York

**Cause of Death:** Beaten with beer bottles, sexually assaulted with a broom handle, strangled with an electrical cord and then drowned in a bathtub. His body was later set on fire in a trash can behind a church

**Date of Death:** January 21, 2001

**Sources:** *The Associated Press*, February 23, 2001

**Notes:** Mack was not himself transgendered, but was the lover of a transgendered woman. On January 21, 2001 he was beaten with beer bottles, sexually assaulted with a broom handle, strangled with an electrical cord and then drowned in a bathtub. His body was later set on fire in a trash can behind a church.

## **Keith E. Jackson**

**Location:** Miami, Florida

**Cause of Death:** Blunt trauma

**Date of Death:** August 27, 2000  
**Source:** *Miami Herald*, August 29, 2000

## **Julie Birchall**

**Location:** San Francisco, California  
**Cause of Death:** Injuries sustained in a hit and run accident.  
**Date of Death:** June 16, 1990  
**Source:** Kerry Birchall  
**Notes:** In spite of being hit on a busy street during the afternoon, no one ever came forward with any information. Police reported that this was likely due to her transgender status.

## **Stephanie Yazum (Frank Yazum)**

**Location:** Schenectady, New York  
**Cause of Death:** Throat slashed, allegedly by David A. Bronson  
**Date of Death:** March 23, 2000  
**Source:** *The Daily Gazette*, March 24, 2000

## **Toni Lee**

**Location:** New York City, New York  
**Cause of Death:** Murdered  
**Date of Death:** 1976  
**Source:** *Drug Magazine*, Volume 6, Number 23

## **"Tiny" (Robert Howard Gibson)**

**Location:** El Cajon, California  
**Cause of Death:** Multiple stab wounds, allegedly by Shawn Keith Wilson.  
**Date of Death:** July 31, 1998  
**Source:** Just Evelyn

## **Barbarella (Joe V.)**

**Location:** San Francisco, California  
**Cause of Death:** Stabbed in the chest  
**Date of Death:** March 15, 1975  
**Source:** *Drug*, Volume 5, Number 19, the *San Francisco Sentinel*, April 10, 1975, and *Crusader*, May 1975  
**Notes:** Barbarella was the neighbor of Yancey-Lisa R., who was killed within weeks of Barbarella.

## **Phyllis Olson**

**Location:** Minneapolis, Minnesota  
**Cause of Death:** Strangled  
**Date of Death:** September 23, 1986  
**Source:** *United Press International*, October 28, 1987 and the *GL Voice*, October 6, 1986

## **Linda Williams**

**Location:** Yonkers, New York  
**Cause of Death:** Stabbed to death by Ron Johnson  
**Date of Death:** October 15, 1983  
**Source:** *United Press International*, April 1, 1985

## **Steven Hernandez**

**Location:** San Francisco, California  
**Cause of Death:** Murdered by Kelly Nichols  
**Date of Death:** February 16, 1989  
**Source:** *San Jose Mercury News*, February 18, 1989

## **Jonathan "Tanya" Streater**

**Location:** Philadelphia, Pennsylvania  
**Cause of Death:** Shot in the face, beaten and sexually mutilated by Donald Jennings  
**Date of Death:** June 30, 1986  
**Source:** *Philadelphia Daily News*, August 12, 1986 and December 5, 1986  
**Notes:** Streater was murdered at the same time as Faustino "Tina" Arroyo. Both were burnt and their bodies were discovered in trash bags, with their legs sawed off above the knees.

## **Barbara (William) Brodie**

**Location:** Feltonville, Pennsylvania  
**Cause of Death:** Internal injuries: the liver, abdomen, and lungs were punctured when a blunt instrument was inserted in Brodie's rectum.  
**Date of Death:** January 3, 1981  
**Source:** *Philadelphia Inquirer*, January 5, 1981 and *Philadelphia Daily News*, January 5, 1981

## **Person dressed in women's clothing**

**Location:** San Diego, California  
**Cause of Death:** Murdered  
**Date of Death:** June 22, 1994  
**Source:** *The San Diego Union-Tribune*, June 24, 1994

## **Person dressed in women's clothing**

**Location:** San Diego, California  
**Cause of Death:** Murdered  
**Date of Death:** June 22, 1994  
**Source:** *The San Diego Union-Tribune*, June 24, 1994

## **David Edward Wigley**

**Location:** San Antonio, Texas  
**Cause of Death:** Stabbed repeatedly in the chest and stomach  
**Date of Death:** November 8, 1993  
**Source:** *San Antonio Express-News*, November 9, 1993



## **Philip Robert Filshie**

**Location:** Toronto, Ontario, Canada

**Cause of Death:** Stabbed in the side by Joyce Lorraine Filshie.

**Date of Death:** December 20, 1984

**Sources:** *Metamorphosis*, Volume 4, Number 6, December 1985 and the *Toronto Star*, November 20, 1995

**Notes:** Ms. Filshie claimed that her husband was beating her, and she "accidentally" stabbed him in the side, from which he bled to death. He was a 51-year-old, post-op FTM. She was acquitted of second-degree murder charges.

## **Rosando "Crystal" Sanchez-Reyes**

**Location:** Oxnard, California

**Cause of Death:** Shot six times at point blank range by Daniel Montenegro Delgado.

**Date of Death:** December 25, 1987

**Sources:** *The Los Angeles Times*, November 16, 1990

**Notes:** Delgado shot Sanchez-Reyes because she danced with his brother, Loreno Montenegro. He was convicted of second-degree murder and sentenced to 17 years in prison.

## **Larry Venzant**

**Location:** Chicago, Illinois

**Cause of Death:** Stabbed repeatedly and castrated by David Feikema

**Date of Death:** December 19, 1993

**Sources:** *Windy City Times*, November 9, 1995

**Notes:** After Feikema stabbed and castrated Venzant, he then placed the severed penis in Venzant's mouth and shoved him in a closet. Feikema was found guilty of first-degree murder.

## **Ashley-Ann Summers (Eric Farrow)**

**Location:** Columbus, Ohio

**Cause of Death:** Shot to death

**Date of Death:** November 20, 1993

**Sources:** *The Columbus Dispatch*, November 21, 1993 and [www.godhatesfredphelps.com](http://www.godhatesfredphelps.com)

## **Patrick Calvert**

**Location:** St. Louis, Missouri

**Cause of Death:** Stabbed

**Date of Death:** August 7, 1991

**Sources:** *Cross-Talk* #29, October 1991

**Notes:** His body was witnessed being pushed out of a car at an off-ramp of Interstate 55-70.

## **Monique Thomas (aka Rufus P. Thomas)**

**Location:** Dorchester, Massachusetts

**Cause of Death:** Murdered, allegedly by George Stallings

**Date of Death:** September 11, 1998 (estimated, body was not discovered for a week)

**Source:** Dallas Denny of GEA

Notes: George Stallings, caught using Thomas's car and credit cards, has pinned the murder on "some men" who, he said, had discovered that Thomas was biologically male. Stallings has been charged with first-degree murder.

## **Felix Abarca**

Location: East County, California, on Sunrise Highway

Cause of Death: Murdered

Date of Death: November 23, 1990 (approximate)

Source: *The San Diego Union-Tribune*, December 17, 1990

Notes: The slaying of Felix, a 24-year-old Tijuana transsexual (according to the source above) was linked to the 5-year series of slayings of female prostitutes and drug addicts.

## **Janice Ricks**

Location: Cleveland, Ohio

Cause of Death: Shot once in the neck and once in the abdomen

Date of Death: June 13, 1996

Source: *Transgender Tapestry*, #76, Summer 1997

## **Christian Paige**

Location: Chicago, Illinois

Cause of Death: Brutally beaten about the head and ears, then strangled, stabbed deeply in her chest and breast area between 15 and 2 dozen times, and finally, burned.

Date of Death: March 22, 1996

Source: Riki Anne Wilchins

## **Rene "Michelle" Ouellet**

Location: Cape May, New Jersey

Cause of Death: Strangled by Brian Halter

Date of Death: June, 1992

Source: *IYF*, December 1997

Notes: Halter claimed he had fallen asleep in a public place, and when he woke up he found Ouellet performing oral sex on him. He was given a 15 year prison sentence.

## **Jessy Santiago**

Location: South Bronx, New York

Cause of Death: Beaten with an iron bar and stabbed with a box cutter, a screw driver and a knife by Augustin Rosado

Date of Death: February 18, 1992

Source: *The Page of Rage*

Source: This is Peggy Santiago's sibling. Peggy was killed three years earlier, in the same area. In spite of evidence to the contrary, the NYPD refused to call the murder a bias crime.

## **Rita Hester**

Location: Boston, Massachusetts

Cause of Death: Multiple stab wounds

Date of Death: November 28, 1998

Source: *IYF*, November 1998

## Remembering Rita

The atmosphere at the club on the night of December 1st, 1998, was filled with tension, fear, and only the most anxious of laughter. Just three days earlier, some of us had learned that one of our compatriots, Rita Hester, had been brutally stabbed to death in her apartment. Informing our sisters and brothers was not the easiest of duties, but one for which we felt much compulsion — not only for the increased alertness required by all, but in sheer shock of Rita's portrayal by the local and national media.

For those of you who haven't already heard the full story, or have only managed to gather what morbid morsels the rest of the press has doled out, here's an account combined from various eyewitness and friends' accounts. Rita Hester was an out transgendered woman who had lived as a full-time woman for over 10 years in the Allston/Brighton community (just west of Boston proper). Comfortable with both herself and the way she was received by all segments of the local communities, Rita was a well-loved patron of both transgender-friendly clubs such as Jacques and straight bars such as Allston's Model Cafe and The Silhouette. She had just returned from performing abroad, a career path which she thoroughly enjoyed. While the press has chosen to focus on Rita's transgendered nature, her friends have instead highlighted her vivaciousness. Jessica Piper remembered her particularly well:

"Everywhere Rita went, people experienced her as an incredibly vivacious, outgoing woman. The Globe's quote about her 'double life' only makes sense metaphorically: in Boston, she hung out in two different cultures, on opposite sides of town, and she was one of the only links between the two. The other queens wouldn't go out to Allston from fear. And the straight Allston kids didn't want to go to downtown queen bars."

Rita was also known as a "large woman who could take care of herself," a fact which makes her murder only more puzzling. On Saturday November 28th, at about 6:20 pm, a neighbor reported to police a disturbance at Rita's residence. Upon arrival, they found her in cardiac arrest, having been stabbed multiple times. She was rushed to Beth Israel Deaconess Hospital, only to be declared dead after her arrival. Eyewitness reports variously claim that she went home with one or two people after meeting them at Jacques on the prior Tuesday, behavior that struck them as not typical of her style. Rumors abounded in the lay press, at various times suggesting the potential involvement of everything from blackmail (hardly likely, given how out she was to friends, family, and community) to Rohypnol ("Roofies," or "the date-rape drug"), but nothing has been substantiated at this point. The only suggestion that seems plausible is that she was murdered by people she knew; since she was a 6'2", 6'3", 225, maybe 230 pound woman, it seems unlikely that she could have been murdered by someone breaking into her home.

But all the conjecture aside, what enrages me (and my friends here at TCNE) is her blatant misrepresentation by the press as he, male, and "Rita," as if this name was an improper appellation. A transgendered individual who has had breast implants, who has lived in a community for 10 years as a woman, and who is known even by "straight" acquaintances as Rita, is not "Rita." She is a woman, and whether or not you agree with her chosen lifestyle in any aspect, you owe her the respect to treat her as she wished to be treated. Yet the *Boston Globe*, an otherwise respectable publication, referred to her repeatedly as male while quoting friends who correctly used female pronouns and her correct first name. Even Boston's gay/bi/lesbian newspaper, *Bay Windows*, repeatedly used male pronouns and Rita's obscure given male first name throughout the article. But to everyone who knew Rita, this was the first they had heard her referred to in this way.

## Carmen Marie Montoya

Location: Oakland, California

Cause of Death: Multiple blows from a blunt object to her face and head

Date of Death: July 10, 1991

Source: GenderPAC

Notes: Police questioned at least one suspect, but there were no arrests.

## Stella Essie (Jerome Brent)

**Location:** Chicago, Illinois  
**Cause of Death:** Hit in the head with a sledgehammer by Loveless Austin  
**Date of Death:** July 17, 1985  
**Source:** *The Chicago Tribune*, August 28, 1985 and September 12, 1986  
**Notes:** Austin was found guilty of murder, and sentenced to 40 years in prison.

## **Derry Glenn**

**Location:** Atlanta, Georgia  
**Cause of Death:** Shot to death  
**Date of Death:** December 19, 1992  
**Source:** Dallas Denny of GEA

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## **Unknown person wearing wig**

**Location:** Atlanta, Georgia  
**Cause of Death:** Killed by blow to head  
**Date of Death:** October 29, 1991  
**Source:** Dallas Denny of GEA

## **Unidentified crossdressed person**

**Location:** New York City, New York  
**Cause of Death:** Puncture wounds over the right eye  
**Date of Death:** Early 1972  
**Source:** *Drag Magazine*, Volume 2, Number 7

## **Rhonda Star (Ronnie Dean Lyles)**

**Location:** Atlanta, Georgia  
**Cause of Death:** Shot to death  
**Date of Death:** October 29, 1991  
**Source:** Dallas Denny of GEA and the *Atlanta Journal-Constitution*

## **Jamie D. Ford**

**Location:** San Diego, California  
**Cause of Death:** Stabbed  
**Date of Death:** 1973  
**Source:** *Drag Magazine*, Volume 3, Number 12  
**Notes:** According to police, Ford was attacked in his home, and managed to walk to a neighborhood bar before he collapsed and died

## **Quincy Favors Taylor**

**Location:** Atlanta, Georgia  
**Cause of Death:** Shot to death  
**Date of Death:** October 11, 1995  
**Source:** *Atlanta Journal-Constitution*, October 11, 1995



## Chanelle Pickett

**Location:** Watertown, Massachusetts

**Cause of Death:** Strangled by William Palmer. She also suffered a beating that left her face terribly bruised and bloody.

**Date of Death:** November 20, 1995

**Source:** Dallas Denny, GEA and Nancy Nangeroni

**Notes:** For more information, please see this short summary of events surrounding the death of Chanelle Pickett by Nancy Nangeroni.

### The Murder of Chanelle Pickett

Chanelle Pickett, a young (23) black "pre-operative" transsexual woman, was found dead in the apartment of William Palmer, 35, a computer programmer, on November 20, 1995. According to the report of the police-appointed medical examiner, Chanelle had died of strangulation. She also suffered bruises about the face consistent with having received a severe beating. Palmer denied having murdered her, claiming that she died while he slept.

Chanelle met Palmer at Playland, Boston's oldest gay bar and a downtown Boston hangout popular with trans girls. According to Chanelle's twin sister Gabrielle, Chanelle thought Palmer was genuinely interested in having a relationship with her. On Sunday evening, November 19, the three of them indulged in some crack cocaine together. When Palmer was unable to convince Gabrielle to join them in a threesome, he took Chanelle to his apartment. Later that night Palmer's roommates heard loud noises coming from his room and knocked on the door to ask if everything was OK, but he said he had the situation under control. The next day, at the advice of his lawyer, Palmer reported Chanelle's death to the police, and was eventually charged with first-degree murder.

On December 10, about 250 people attended a memorial service followed by a candlelight vigil in memory of Chanelle. Many of those in attendance did not know Chanelle, but appreciated the ongoing struggle of all transgender people represented by her murder.

In the ensuing murder trial, judge William Barton did not allow the jury to see photographs of Chanelle's bruised and bloodied face. The medical examiner testified to death by strangulation, but the jury believed the medical witnesses for the defense. Palmer's lawyer incited the prejudices of the jury, repeatedly referred to Chanelle's "bizarre" transformation that took place as she struggled for her life, her voice and manner becoming more masculine. The jury found Palmer guilty only of assault and battery. At the sentencing, judge Barton admonished Palmer, telling his attorney "quite frankly, the defendant should kiss the ground you walk on," before sentencing Palmer to two years in prison. Such a sentence for assault and battery with no priors sent a clear message that the judge believed Palmer to be guilty of at least manslaughter.

In the words of the headline to the Boston Phoenix article about the murder, "When is a murder not a murder? When the victim is a transsexual."

## Unknown person dressed in women's clothing

**Location:** Santa Ana, California

**Cause of Death:** Shot once in the chest

**Date of Death:** November 20, 1988

**Source:** Los Angeles Times, November 22, 1988 and Orange County Register, November 21, 1988

## Tasha Dunn

**Location:** Tampa, Florida

**Cause of Death:** Bludgeoned to death

**Date of Death:** February 14, 1998

**Source:** Transgender Tapestry, Summer 1998 and IYF, February 27, 1998

## Vianna Faye Williams

Location: Jersey City, New Jersey

Cause of Death: Multiple stab wounds to back, neck, and chest

Date of Death: December 24, 1997

Sources: Transgender Tapestry, Summer 1998 and IYP, March 1, 1998

### Remembering Vianna Faye Williams

She had been working for sometime down in the Meatmarket in New York City—a notorious place for she-male street hookers. Vianna was turning tricks, and saving her money for her SRS, skirting the edge of Nothingness to save herself. Vianna Faye Williams was doing what a young trans immigrant from Jamaica could do to get by, and get on. Youthful and sweet, she became friends with David, my close friend, the one who was there for me from my coming out through my surgery.

I never met her, never even knew about her until a month before my sojourn to Montreal. She was scheduled for surgery the week following mine. She was looking forward to the end of sex work. Vianna was trying to line up a normal job. She knew her degradation and she knew she had to get out of it. SRS would provide her with a second freedom. It would end her nights as a chick-with-a-dick for hire. But with all this she was able to maintain a lightness of being that few "straight" people could exude. David told her about me and visa versa, and we were both looking forward to meeting each other, one done and one to go, both of us surviving our own nightmares, triumphant over our own demons.

The day after my release from hospital, David called. I could hear it in his voice—anxious, distraughtful. He kept asking me if I was okay, I had to do the same. "You're sure there's nothing wrong, David?"

Just some personal matter that would work itself out. I asked about this young new-woman-in-waiting and all he could say was "don't worry, it's going to be alright."

She never did show. I thought it might have had something to do with Ice Storm 98, which crippled Montreal with a two foot layer of ice the day of my SRS. As soon as I got back I called David. "She didn't make it up to Montreal, David. Was it because of the Ice Storm? I heard they didn't let anyone into Quebec Province for over ten days."

No. On Christmas Eve, 1997 the doorbell rang. It was the neighbor's twelve year old boy. He came to give Vianna something, at least that's how the rumor goes.

Vianna Faye Williams was stabbed over forty times by a twelve year old boy whom it was later rumored confessed to the police that he hated faggots. The police never released any official details about the murder despite press inquiries.

David didn't want to tell me about her death. He even pretended that everything was alright when I mentioned her days after Christmas. He wanted me to go into surgery and heal with a clear mind. But he just had to call me afterwards. He had to know that at least I was alright, that I made it though, and he would see me again.

As soon as I was healed enough I went over David's. He was treating me to dinner, a quiet celebration of my second birthday. The talk turned to Vianna. It had to. How, how could a horror like this occur? It wasn't an occupational hazard rearing it's brutal head, it was a twelve year old on Christmas eve. Promises of delight, little angel ornaments dangling from trees, smiling faces on glowing children. The gift of the little drummer boy.

We broke down in tears and he cried on my shoulder. At least I made it.

Vianna Faye Williams, murdered on Christmas Eve, 1997.

## **Unknown person wearing a dress**

**Location:** Hollywood, California  
**Cause of Death:** Multiple gunshot wounds.  
**Date of Death:** February 18, 1991  
**Source:** *Cross-Talk* #25, June 1991

## **Shawn "Junior" Keegan**

**Location:** Toronto, Ontario, Canada  
**Cause of Death:** Shot twice in the head with a .357 magnum filled with hollow-point bullets, by Marcello Palma  
**Date of Death:** May 20, 1996  
**Sources:** *XTRA!*, June 6, 1996, Issue No. 303 and the *Toronto Star*, April 29, 1999.  
**Notes:** Shawn was one of three murders over the same weekend by the same killer. Two of the victims were transpeople. Palma's lawyer claims that Palma was not "criminally responsible" when he killed them.

## **Nikki**

**Location:** New York City, New York  
**Cause of Death:** Thrown off roof  
**Date of Death:** Spring of 1976  
**Source:** Rosalyn Blumenstain, GLP

## **Rafael Sanchez Ayala**

**Location:** San Diego, California  
**Cause of Death:** Shot in the head  
**Date of Death:** June 11, 1990  
**Source:** *The San Diego Union-Tribune*, December 17, 1990  
**Notes:** Rafael was shot at the same time as Castro Nova Estabon.

## **William Battles**

**Location:** South Bronx, New York  
**Cause of Death:** Beat and sexually mutilated by members of a local street gang.  
**Date of Death:** November 24, 1973  
**Source:** *Drag Magazine*, Volume 4, Number 15 and the *New York Times*, November 25, 1973

## **Regina Haskins**

**Location:** New York City, New York  
**Cause of Death:** Shot at least twice, once in the neck and once in the head.  
**Date of Death:** April 4, 1998  
**Source:** *New York Daily News*, August 18, 1998

## **Leslie Re'Geanne**

**Location:** Chicago, Illinois  
**Cause of Death:** Struck and killed by a car  
**Date of Death:** March 24, 1998  
**Source:** Outlines  
**Notes:** Leslie was a well-known drag performer, and was among the first to be outspoken about transgendered people, appearing on the Donahue Show, Oprah and others. She was killed in a hit-and-run.

## **Tracy Thompson (aka Tracy Turner, Billy Joe Turner)**

**Location:** Cordele, Georgia  
**Cause of Death:** Head wounds, most likely caused by a baseball bat.  
**Date of Death:** March 30, 1999  
**Source:** *The Macon Telegraph*, April 1, 1999  
**Notes:** Anyone with information about Tracy Thompson's death call the Wilcox County Sheriff's Office at 912-647-2322 or the GBI's Perry office at 912-987-4545.

## **Daniel A. Castro**

**Location:** Santa Ana, California  
**Cause of Death:** Shot once with a small-caliber handgun  
**Date of Death:** July 10, 1993  
**Source:** *The Orange County Register*, July 11, 1993  
**Notes:** Police suspect that the gunman may have confronted Castro because he was crossdressed.

## **Unnamed Transvestite**

**Location:** San Antonio, Texas  
**Cause of Death:** Bludgeoned to death  
**Date of Death:** March 29, 1991  
**Source:** *San Antonio Light*, March 30, 1991  
**Notes:** Victim was found partially burnt.

## **Valerie Hill**

**Location:** Akron, Ohio  
**Cause of Death:** Shotgun wound to the abdomen by Edward Blazeff  
**Date of Death:** July 12, 1995  
**Source:** *Akron Beacon Journal*, July 13, 1995  
**Notes:** This may have been a murder-suicide, as it appeared that Blazeff shot Hill and then shot himself in the side of the head. No note, however, was found.

## **Faustino "Tina" Arroyo**

**Location:** Philadelphia, Pennsylvania  
**Cause of Death:** Suffocated, beaten and sexually mutilated by Donald Jennings.  
**Date of Death:** June 30, 1986  
**Source:** *Philadelphia Daily News*, August 12, 1986 and December 5, 1986  
**Notes:** Arroyo was murdered at the same time as Jonathan "Tanya" Streater. Both were burnt and their bodies were discovered in trash bags, with their legs sawed off above the knees.

## **Samantha York**



**Location:** Fayetteville, North Carolina  
**Cause of Death:** Murdered, allegedly by James Edward Shaffer  
**Date of Death:** June 26, 1988  
**Source:** *The Charlotte Observer*, June 29, 1988

## Vernon Sivills

**Location:** Norfolk, Virginia  
**Cause of Death:** Head injuries attained in a hit-and-run accident perpetrated by Michael O'Donnell and Joseph P. Stone.  
**Date of Death:** November 4, 1988  
**Source:** *The Virginian-Pilot*, June 27, 1990 and July 11, 1990.  
**Notes:** Prior to the trial, O'Donnell said "Excuse me, but he was a faggot, right? All faggots deserve to die anyway, don't you think so?" O'Donnell was sentenced to to three years in prison for voluntary manslaughter, time suspended. Stone was sentenced to ten years in prison for involuntary manslaughter and five years for hit-and-run.

## "Benderella" (Benjamin Scott Rae)

**Location:** Tacoma, Washington  
**Cause of Death:** Shot in the face three times with a small caliber handgun, by Victor Lynn Velasquez.  
**Date of Death:** July 10, 1977  
**Source:** Mardi Clark and the *Tacoma News Tribune*

### Remembering Benderella

In early 1977, I met Benderella for the first time. It was at her home, and I was brought there by friends of mine. She was a gracious hostess, and was able to make an extremely shy young FtM feel comfortable. During a tour of her home, to look at the antiques she had collected in her 38 years, she talked about wishing she could get SRS, but how she felt it was out of the question, as she could never pass. She had had 'water on the brain' as a newborn, and her skull was misshapen because of this. "Finding wigs that fit is a real bitch!" was one of the things she told me that night.

In July, she was dead, having been murdered by a 20 year old soldier who used the "She told me she was a real woman. Of course I freaked out when I found out it wasn't true." defense to receive the lightest possible sentence that could be given at that time, plus a recommendation that could allow him to serve only months of a 20-year sentence.

No one but the participants will ever really know what transpired that night, but no one who knew her ever believed that he was telling the truth.

## Felix Benitez

**Location:** New York City, New York  
**Cause of Death:** Murdered  
**Date of Death:** July 16, 1985  
**Source:** *The New York Times*, November 2, 1986  
**Notes:** Media coverage of the time pointed to this being part of a series of murders of primarily homosexual individuals in New York.

## Rita Sellers

**Location:** El Rancho, Colorado  
**Cause of Death:** Murdered  
**Date of Death:** December 16, 1979 (approximate)  
**Source:** *United Press International*, February 11, 1981

## **Rodney D. Neadeau**

**Location:** Minneapolis, Minnesota  
**Cause of Death:** Blows to the head and abdomen.  
**Date of Death:** May 31, 1996  
**Source:** *Minneapolis Star Tribune*, June 1, 1996

## **Kevin Freeman**

**Location:** New York City, New York  
**Cause of Death:** Skull split nearly in half  
**Date of Death:** June 20, 1997  
**Source:** *Associated Press*, August 28, 1999

## **Kareem Washington**

**Location:** Passaic, New Jersey  
**Cause of Death:** Murdered  
**Date of Death:** August 29, 1999  
**Source:** *The Bergen Record*, August 31, 1999

## **Quona R. Clark**

**Location:** Chicago, Illinois  
**Cause of Death:** Murdered  
**Date of Death:** March 2, 1993  
**Source:** *The Chicago Tribune*, March 6, 1999

## **Alina Marie Barragan**

**Location:** San Jose, California  
**Cause of Death:** Not yet specified: allegedly strangled by Kozi Santino Scott.  
**Date of Death:** January 19, 2000  
**Source:** *San Jose Mercury News*, January 20, 2000

### **The Whole World Wasn't Watching**

On January 19, 2000, Alina Marie Barragan, a 19-year-old transgender woman, was murdered in a hate crime in San Jose, California. Ten days later, on January 29, hundreds of transgender people met for the Transgender San Francisco (TGSF) annual cotillion and beauty pageant. No mention was made of the hate crime, and almost no one there knew about it. How did this happen?

While I never knew Alina in life, I have become personally involved in the events surrounding her death. I first heard about the murder on Tuesday the 25th, from my gender counselor, who had been asked if Alina was one of her patients (she wasn't). She mentioned that an article about it had been published in the *San Jose Mercury News*. She asked me to send any information I could find about it to her, and I assured her that I was connected to many gender-oriented online resources, and I was sure that the community would be informed through this means.

That night I could find no mention of the crime anywhere. I did a search for the words "transsexual" and "transgender" on the Mercury News website, and came up with no hits. The murder had been reported, it turns out, but the body hadn't been positively identified. The Merc reported the body to be that of a "man", and made no mention of Alina's gender identity.

## **Unidentified person dressed in women's clothes**

**Location:** New York City, New York  
**Cause of Death:** Murdered, allegedly by William Harris.  
**Date of Death:** August 1975  
**Source:** *The New York Times*, August 18, 1975

## **Julia Carrizales**

**Location:** Webster, Texas  
**Cause of Death:** Strangulation  
**Date of Death:** July 21, 2000  
**Source:** Community Awareness for Transgender Support  
**Notes:** There were also numerous stab wounds on the body of the victim.

## **Ana Melisa Cortez**

**Location:** Nashville, Tennessee  
**Cause of Death:** Stabbed to death  
**Date of Death:** October 15, 2000 (Approximate)  
**Source:** *Nashville Tennessean*, October 21, 2000

## **Sissy (Charles) Bolden**

**Location:** Savannah, Georgia  
**Cause of Death:** Murdered  
**Date of Death:** October 15, 1999  
**Source:** Savannah Police Department Press Releases, October 15, 1999 and October 18, 1999  
**Notes:** If anyone has any information concerning this incident they are encouraged to contact Savannah Police at 232-4141 or CrimeStoppers, anonymously, at 234-2020. A reward of up to \$2500 is available from CrimeStoppers for credible information leading to an arrest or conviction in the incident.

## **Willie Houston**

**Location:** Nashville, Tennessee  
**Cause of Death:** Shot, allegedly by Lewis Maynard Davidson III  
**Date of Death:** July 29, 2001  
**Source:** *Bay Windows*, August 3, 2001  
**Notes:** Houston was not himself transgendered, but faced anti-transgendered and (and anti-gay) violence because he was carrying his wife's purse, and assisting a blind male.

## **Antonio Texera Dos Santos**

**Location:** Rome, Italy  
**Cause of Death:** murdered  
**Date of Death:** October 22, 1999

**Source:** Crisalde AzioneTrans

**Notes:** Dos Santos was a Brazilian transperson living in Italy. Her body was found with both hands tied behind her back.

## **Marquita (Martin) Johnson**

**Location:** Xenia, Ohio

**Cause of Death:** Shot three times in the face at close range, by Juan Lamont Harding

**Date of Death:** October 7, 1993

**Source:** State v. Harding, No. 94-CA-64 (Ohio App. May 12, 1995)

## **Arlene (Hector) Diaz**

**Location:** El Paso, Texas

**Cause of Death:** Shot in the back, allegedly by Justen Grant Hall

**Date of Death:** April 10, 2002

**Source:** *El Paso Times*, April 27, 2002

**Notes:** Arlene (Hector) Diaz was planning her upcoming transition, and attended a local transgender support group the night of her murder. She was fatally shot in the back, allegedly by Justen Grant Hall. The local police have classified this murder as a hate crime.

## **Nicole Lee Anderson (Thomas Shrom)**

**Location:** Hopewell, New York

**Cause of Death:** Bludgeoned with a claw hammer, by Randy Loomis.

**Date of Death:** September 2001

**Source:** *Rochester Democrat and Chronicle*, August 21, 2002

**Notes:** Anderson and Loomis met in a medium security prison. Loomis killed Anderson four days after his release. Loomis has been sentenced to 20 years for this murder.

## **Victor Pachas**

**Location:** Paterson, New Jersey

**Cause of Death:** Beaten, stabbed, slashed, and asphyxiated by Carlos Camacho

**Date of Death:** February 25, 2001

**Source:** *The Record*, October 30, 2002

## **Nguyen Bui Linh**

**Location:** Vinh City, Vietnam

**Cause of Death:** Stabbed by Tran Quoc Dung and Nguyen Binh Hung

**Date of Death:** July 15, 2002

**Source:** *Sapa-AFP*, July 22, 2002

**Notes:** Nguyen Bui Linh, a 14 year old, was impersonating a female on an online chat forum in Vietnam. After Tran Quoc Dung and Nguyen Binh Hung discovered that they were not talking to a pretty 16 year old named Phuong Anh, they met and stabbed Linh in the back.

## **Gwen Araujo**

**Location:** Newark, California

**Cause of Death:** Beaten to death, allegedly by four ex-classmates.

**Date of Death:** October 3, 2002

**Source:** *San Francisco Chronicle*, October 17, 2002



**Notes:** Araujo had been dressing as a woman since she was 14 years old, and was murdered at the age of 17. During a house party, she was revealed to have been more a male. After this revelation, at least three individuals — Michael Magidson, Jose Antonio Merel, and Jason Cazarez — allegedly beat her, dragged her into a garage, and strangled her, before disposing of her body in a remote location 150 miles away. All three of the above suspects are in custody awaiting trial on murder charges with a hate crime enhancement. A fourth suspect, Jaron Chase Nabors, pled out in exchange for testimony, receiving a 10-year prison sentence.

## **Danisha Victoria Principal Williams**

**Location:** Bradenton, Florida

**Cause of Death:** Murdered

**Date of Death:** February 28, 2003

**Source:** *Sarasota Herald Tribune*, March 4, 2003

**Notes:** Williams was very open as a transgendered woman. She was discovered in her apartment after neighbors discovered a trail of blood in the hall which lead to Williams's bathroom. Her body had been left in her bathtub.

## **Tamyra Michaels**

**Location:** Highland Park, Michigan

**Cause of Death:** Shot to death

**Date of Death:** December 14, 2002

**Source:** WXYZ-TV Detroit, December 14, 2002

**Notes:** Tamyra Michaels was a transgendered woman who had been living full-time since age 17. She was shot by an assailant that she described as a white male with a foreign-sounding accent, on December 14th. She passed away while in the hospital.

## **Amanda Jofré**

**Location:** Chile

**Cause of Death:** Murdered, allegedly by Winston Michelson del Canto

**Date of Death:** November 24, 2002

**Source:** IGLHRC and TravesChile

**Notes:** Amanda Jofré, then 23 years old, was found dead in Michelson del Canto's apartment. Michelson del Canto is a known as a drug dealer and manufacturer. It is also rumored that he likes to keep underage transgender sex-workers locked in his apartment for days. Nevertheless, Michelson del Canto was unanimously acquitted of any wrongdoing, and escorted home by police.

## **Stanley Van Dyke Traylor**

**Location:** Oakland, California

**Cause of Death:** Shot multiple times

**Date of Death:** November 6, 2003

**Source:** *San Francisco Chronicle*, November 7, 2003

**Notes:** Traylor was a 38-year-old transperson who came to the San Francisco Bay Area from Louisiana. Police found Traylor's body in the middle of a West Oakland street early in the morning on the 7th, wearing a halter top and earrings. A wig was also found nearby.

## **Rivera Rene**

**Location:** Grand Rapids, Michigan

**Cause of Death:** Throat cut

**Date of Death:** August 14, 2004

**Source:** *The Grand Rapids Press*, September 1, 2004

## Unknown Transsexual

**Location:** Long Beach, California

**Cause of Death:** Beaten to death

**Date of Death:** November 6, 2004

**Source:** *Long Beach Press Telegram*, November 7, 2004

**Notes:** This transsexual woman was found beaten to death in an alleyway near 14th and Paloma streets in Central City neighborhood. She was badly beaten. Very little additional information has been presented.

## Felicia Moreno

**Location:** Hollywood, California

**Cause of Death:** Shot twice by Patrick Edward Vallor

**Date of Death:** December 26, 2004

**Source:** *The Desert Sun*, December 28th, 2004

**Notes:** Her murderer, a Active-Duty U.S. Marine lance corporal named Patrick Edward Vallor, was shot and killed after a standoff with police.

## Ashley Nickson

**Location:** Dothan, Alabama

**Cause of Death:** Shot multiple times

**Date of Death:** May 1, 2005

**Source:** WTVY, May 3, 2005

## Ronnie Paris, Jr.

**Location:** Tampa, Florida

**Cause of Death:** Beaten by his father, Ronnie Paris, Sr.

**Date of Death:** January 28, 2005

**Source:** PlanetOut, July 14, 2005

## Christina Smith

**Location:** Houston, Texas

**Cause of Death:** Shot

**Date of Death:** October 12, 2005

**Source:** *Houston Chronicle*, October 14, 2005

**Notes:** Christina was a Hurricane Katrina evacuee from New Orleans.

# **EXHIBIT**

# **I**





**REDACTED**WESTER COUNTY  
Y C. IDONI  
County Clerk**APPLICATION FOR AMENDED OR DUPLICATE PIS**

104518

ORIGINAL LICENSE #

INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office and in duplicate.

NAME: Johnnie NANCE		<b>REDACTED</b>	
AGE: 51	HEIGHT: 6' 1"	WEIGHT: 300	NOTE: Check box if purchase

**CIRCLE APPROPRIATE TRANSACTION (S)**

RESIDENCE CHANGE ☒ **DISPOSED** ☒ **ACQUIRED** NAME CHANGE ☒ **RESTRICT**  
 DUPLICATE SURRENDERED SUSPENDED REVOKED DECEASED OTHER

**I. TO AMEND LICENSE COMPLETE 1 THROUGH 7 WHERE APPROPRIATE**1. NAME JOHNNIE NANCE PHONE #'s: HOME 91 **REDACTED** **REDACTED**

2. NEW ADDRESS \_\_\_\_\_

3. THE FOLLOWING WEAPON (S) HAVE BEEN ACQUIRED FROM: NAME GANDER MTN.ADDRESS 100 NORTH GALLERIA DR. MIDDLETOWN NY 10941LICENSE #/DEALER LICENSE #/SHIELD # FFL# 16-14-00588 IF MORE THAN ONE SELLER, CHECK THIS BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE HERITAGE	REV/AUTO REV	MODEL ROUGH RIDER	CALIBER .22	SERIAL # G37997
------------------	-----------------	----------------------	----------------	--------------------

4. THE FOLLOWING WEAPON (S) HAVE BEEN DISPOSED TO: NAME GANDER MTN.ADDRESS 100 NORTH GALLERIA DR. MIDDLETOWN NY 10941LICENSE #/DEALER LICENSE #/SHIELD # FFL# 16-14-00588 IF MORE THAN ONE BUYER, CHECK THIS BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE S+W	REV/AUTO SEMI-AUTO	MODEL	CALIBER 9MM	SERIAL # TFK 9124
-------------	-----------------------	-------	----------------	----------------------

5. THE FOLLOWING WEAPON (S) HAVE BEEN: (CIRCLE ONE) LOST STOLEN DESTROYED

LAW ENFORCEMENT AGENCY REPORTED TO: \_\_\_\_\_

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
------	----------	-------	---------	----------

6. AMEND LICENSE TO: (CIRCLE ONE) ADD DELETE ☒ **A RESTRICTION**IF AMENDMENT IS EMPLOYMENT RELATED, STATE THE FOLLOWING: (FOR A BUSINESS, EMPLOYMENT, OR FULL CARRY)  
I AM REQUESTING THAT THE RESTRICTION ON MY LICENSE BE CHANGED TO: FULL CARRYNAME: JOHNNIE NANCE **REDACTED** **REDACTED**

## 7. NAMES AND ADDRESS\* OF BUYERS AND/OR SELLERS (IDENTIFY IF BUYER OR SELLER)

NAME	ADDRESS	WEAPON SERIAL #

(A separate list of buyers/sellers must be submitted in triplicate on plain white paper, if there are more than 4 buyers/sellers)

**II. TO REQUEST A DUPLICATE LICENSE, COMPLETE AFFIDAVIT**STATE OF NEW YORK  
COUNTY OF WESTCHESTER  
CITY/VILLAGE OF

S.S.

Full Name JOHNNIE C. NANCEPresent Occupation TRAIN OPERATORName and Address of Employer NYCT 130 LIVINGSTON ST. BROOKLYN NY 11201

Serial number of lost license \_\_\_\_\_

Date of Issuance \_\_\_\_\_

Brief statement of circumstances under which permit was lost:

Statement of weapon (s) now in applicant's possession, which are to be registered on license:

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

(A separate list of guns must be submitted in triplicate on plain white paper, if applicant possesses more than 3 guns.)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Applicant's Signature

Notary Public

**III. TO BE COMPLETED BY ALL APPLICANTS**Have you been arrested for any crime, been a patient at any mental institution, or had an order of protection issued against you since the last license was issued? (CIRCLE ONE) YES NO  
If yes, give details below:

Date and Place of Birth

**REDACTED**NY YORK

Foreign Born Citizens Only - Naturalization Certificate Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_ Court \_\_\_\_\_

I SWEAR THAT ALL THE ABOVE FACTS ARE TRUE TO THE BEST OF MY KNOWLEDGE

APPLICANT'S SIGNATURE

## FOR OFFICE USE ONLY

AMENDED LICENSE APPROVED ☐ NOT APPROVED ☐DUPLICATE LICENSE APPROVED ☐ NOT APPROVED ☐

EXPIRATION DATE \_\_\_\_\_

DATE

SEP 10 2010

COUNTY JUDGE

HON. ROBERT K. HOLDMAN

Revised: 1/12/2005



Robert P. Astorino  
County Executive

Deputy County Executive

George W. Long, Jr.  
Commissioner

August 11, 2010

Honorable Justice  
Westchester County Court  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, New York 10601

Re: Pistol License amendment of Johnnie Nance

**REDACTED**

Dear Honorable Justice:

The above captioned individual has submitted an application to Westchester County to amend his New York State (NYS) Pistol License to allow the category of **FULL CARRY**.

The applicant is currently licensed by Westchester County for the purpose of Target Shooting (#104518). This amendment application is for the following:

- 1) Delete Target Shooting.
- 2) Add Full Carry.
- 3) Delete one (1) firearm.
- 4) Add one (1) firearm.

A name based criminal background and related database check through the National Instant Criminal Background check system was conducted. No derogatory information was uncovered. In addition, a query of the files of the NYS Department of Mental Hygiene also revealed no derogatory information.

The applicant submitted notarized documentation attesting that 1) he is a citizen in good standing in the community with many family and social ties, and 2) he is steadily employed and stable and of good moral character, and 3) he has a desire to become involved in competitive shooting at various ranges, and 4) the NRA has offered to partner with his wife to provide all female classes to women, and 5) he would like to use his NRA Instructor Safety Certifications to promote safe gun handling at various locations and having a full carry permit would facilitate these endeavors.

New York State Department  
of Law Enforcement Services

State At-Large Representative  
Buckingham, NY 10512

Telephone: (914) 864-7700



Westchester County Sheriff's Office

Johnnie C. Nance  
August 11, 2010  
Page 2 of 2

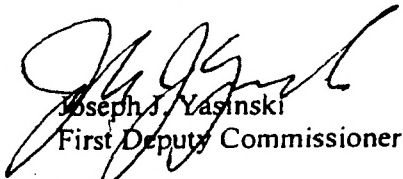
It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant. No safety related concerns have been cited by the applicant in support of the license sought. The applicant's current firearm license would appear to cover the sport target shooting related endeavors that he has cited. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public.

This application is respectfully forwarded with the following recommendations:

The category of **Full Carry** is recommended for **DISAPPROVAL**.  
The addition of one firearm to license is recommended for **APPROVAL**.  
The deletion of one firearm from license is recommended for **APPROVAL**.

Sincerely,

DEPARTMENT OF PUBLIC SAFETY  
Westchester County Police



Joseph J. Yasinski  
First Deputy Commissioner  
JJY/fd



Chief Inspector's Endorsement

August 5, 2010

RE: Pistol License Amendment – **TARGET SHOOTING ADD FULL CARRY ADD ONE FIREARM  
DELETE ONE FIREARM**

Mr. Johnnie Nance, Pistol License #104518

I have reviewed the attached investigative report and the foregoing comments of Sergeant Bruce Bellom and Lieutenant Frank Donovan. I concur with both of their recommendations.

Forwarded to First Deputy Commissioner Joseph J. Yasinski and recommend **disapproval** of this application amendment to Pistol License #104518 to add the category of **FULL CARRY** firearm license for the applicant. Recommend **approval** of the addition of one firearm and deletion of one firearm to the license of the applicant.

  
Chief Inspector Roger R. Rokicki  
Chief of Administrative Services

RRR/jw

08/03/2010: Endorsement by Lieutenant Frank J. Donovan of memorandum by Sergeant Bellom dated 08/02/2010 entitled: Pistol License amendment of Johnnie Nance (FC).

The applicant is currently licensed by Westchester County for the purpose of Target Shooting (#104518). This amendment application is for the following:

- 1) Delete Target Shooting.
- 2) Add Full Carry.
- 3) Delete one (1) firearm.
- 4) Add one (1) firearm.

The applicant submitted notarized documentation attesting that 1) he is a citizen in good standing in the community with many family and social ties, and 2) he is steadily employed and stable and of good moral character, and 3) he has a desire to become involved in competitive shooting at various ranges, and 4) the NRA has offered to partner with his wife to provide all female classes to women, and 5) he would like to use his NRA Instructor Safety Certifications to promote safe gun handling at various locations and having a full carry permit would facilitate these endeavors.

It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant. No safety related concerns have been cited by the applicant in support of the license sought. The applicant's current firearm license would appear to cover the sport target shooting related endeavors that he has cited. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public.

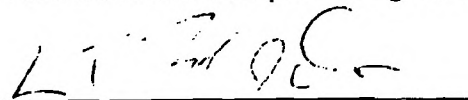
I concur with Sergeant Bellom and recommend the following:

The category of **Full Carry** is recommended for **DISAPPROVAL**.

The addition of one firearm to license is recommended for **APPROVAL**.

The deletion of one firearm from license is recommended for **APPROVAL**.


Forward to Chief Inspector Roger R. Rokicki.



Lieutenant Frank J. Donovan



Memorandum  
Department of Public Safety

DATE: August 2, 2010  
TO: Lt. Frank Donovan  
FROM: Sgt. Bruce Bellom #15   
RE: Pistol License amendment of Johnnie Nance

The above captioned individual has submitted an application to Westchester County to amend his New York State (NYS) Pistol License to allow the category of **FULL CARRY**.

The applicant is currently licensed by Westchester County for the purpose of Target Shooting (#104518). This amendment application is for the following:

- 1) Delete Target Shooting.
- 2) Add Full Carry.
- 3) Delete one (1) firearm.
- 4) Add one (1) firearm.

A name based criminal background and related database check through the National Instant Criminal Background check system was conducted. No derogatory information was uncovered. In addition, a query of the files of the NYS Department of Mental Hygiene also revealed no derogatory information.

The applicant submitted notarized documentation attesting that 1) he is a citizen in good standing in the community with many family and social ties, and 2) he is steadily employed and stable and of good moral character, and 3) he has a desire to become involved in competitive shooting at various ranges, and 4) the NRA has offered to partner with his wife to provide all female classes to women, and 5) he would like to use his NRA Instructor Safety Certifications to promote safe gun handling at various locations and having a full carry permit would facilitate these endeavors.

It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public.

This application is respectfully forwarded with the following recommendations:

The category of **Full Carry** is recommended for **DISAPPROVAL**.

The addition of one firearm to license is recommended for **APPROVAL**.



# WESTCHESTER COUNTY POLICE PISTOL LICENSE UNIT

ATTACHMENT: FULL CARRY

OFFICE USE ONLY

CASE#: \_\_\_\_\_

DET: \_\_\_\_\_

Answer all questions fully and in accordance with the guidelines set forth in the Pistol Safety & Information Handbook. This form and attachments must be notarized.

## APPLICANT INFORMATION:

Last Name: NANCE

First Name: JOHNNIE MI

Address: \_\_\_\_\_

**REDACTED**

**REDACTED**

STREET

CITY

STATE

ZIP

List all factors which you believe to be relevant to your application and which establish proper cause for issuance of a firearm license for the purpose of Full Carry:

The following is intended to show cause for a restriction change from TARGET to FULL CARRY.

I am a citizen in good standing in the community with many family and social ties. I am steadily employed and stable. I am of good moral character.

My intent to change restriction is due to my desire to become involved in competitive shooting at various range locations. Also, the NRA has offered to partner with my wife to provide all female classes to women. It is my intention to co-instruct these classes. I would like to use my NRA Instructor Safety Certifications to promote safe gun handling at various locations. Having a full carry permit would facilitate these endeavors.

Thanking you in advance for your consideration.



Lined area for text entry.

Tibor C. Jones  
APPLICANT NAME (PRINT)

Tibor C. Jones  
APPLICANT NAME (SIGNATURE)

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        .)

SUBSCRIBED AND SWORN TO BEFORE ME THIS 30 DAY OF JUNE YEAR 2010

Dulce Marina Washburn  
SIGNATURE OF NOTARY PUBLIC

DULCE MARINA WASHBURN  
Notary Public, State of New York  
No. 0-17A6052549  
Qualified in Westchester County  
Commission Expires Dec. 18, 2011

2010



# Used Firearm Purchase Agreement Customer Copy

GM#250 - Wallkill FFL# 6-14-00588  
100 N. Galleria Dr

Middle Town, NY 10941  
(845) 692-5600

Entered Date: 06/29/2010

Printed Date: 06/29/2010 12:29 pm

## Customer Information:

Name: anna l marcucci

Address: **REDACTED**

City:

State: NY

Zip: 10701

County: westchester

Phone:

**REDACTED** **REDACTED** **REDACTED**

## Firearm Information:

UPC: 499925041272

Barrel Length: 3-3/4in FS

Manufacturer: Smith & Wesson

Serial Number: tfr9124

Model: 910S

Cost: \$225.00

Cal/Gauge: 9mm Luger

Department: Used Firearms

Grade: Good

Class: Handguns

Subclass: Semi-Auto Pistol

GANDER MOUNTAIN #250  
(845)692-5600  
Mon-Sat 9am-9pm  
Sundays 10am-6pm

SERIAL NUMBER tfr9124

PAID OUT

USED GUN PAID OUT \$225.00

TOTAL \$225.00-  
ASH \$225.00-

CUSTOMER COPY

JT.Des.  
-29-2010 12:32:20 0250 45 531411 1280

WANDER MOUNTAIN #250  
 (845)892-5600  
 Mon-Sat 9am-9pm  
 Sundays 10am-6pm

LAYAWAY SALE  
 LAYAWAY NUMBER 10011499  
 CUSTOMER NAME: Anna Marcucci-Nance  
 PHONE:

**REDACTED**  
**REDACTED**

ADDRESS  
 CITY:  
 STATE:  
 ZIP:

ROUGH RIDER: 22 WIN MAG: 6-1/2 IN FS: RIGHT:  
 727962500316 199.99 TC

SERIAL NUMBER G37997

SUBTOTAL	\$199.99
New York State Tax	\$8.00
CNTY TAX 4.125%	\$8.25
LAYAWAY SALE TOTAL	\$216.24

LAYAWAY DEPOSIT	\$216.24
-----------------	----------

TOTAL	\$216.24
CASH	\$220.00
CHANGE	\$3.76

BALANCE DUE	\$0.00
-------------	--------

All items on Layaway will be held for 90 days. If the items are not picked up within 90 days, the items will be returned to stock. A \$25.00 restocking fee will be charged for all cancelled layaways.

### CUSTOMER COPY

ITEMS 1  
 06-29-2010 12:45:58 0250 26 525287 2021 Robert H

3 Ways To Shop  
 In Store, Online and Catalog!

Printed: 06/29/2010

### INQUIRY DETAIL REPORT

GM#250 - Walkin FFL# 6-14-00588

Page: 1

### Firearm Information

Serial Number:	G37997	Manuf/Importer:	heritage
UPC:	727962500316	Model:	rough rider
Description:	6.5" heritage rough	Caliber/Gauge:	.22 caliber
New/Used?:	New	Type:	Revolver

Printed: 06/30/2010

INQUIRY DETAIL REPORT  
GM#250 - Walkin FFL# 6-14-00588

Page: 1

**Firearm Information**

Serial Number: tfr9124  
UPC: 499925041272  
Description: two mags total  
New/Used?: Used

**Current**

Manuf/Importer: smith & wesson 6946  
Model: 6946  
Caliber/Gauge: 9mm  
Type: Pistol

**Acquisition Information**

Date: 06/29/2010  
Assoc.: 531411, JT DESIMONE

Acq From:

**REDACTED****Disposition Information**

Date:  
Assoc.:

Transfer/Sold To:

Cost:

Retail:





June 16, 2010

Dear NRA Certified Instructor,

Perhaps you've seen it, too – a dramatic rise in the demand for NRA classes for women. It's true that there has never been a greater need for firearms training for women. Often, the request for information on such classes is accompanied by the comment, "I'd like to take a class taught by a woman."

Women who seek firearms instruction often encounter obstacles. Some are discouraged because of stereotypical gender roles, and others mistakenly believe that they do not have a place in a field that is dominated by men. With that in mind, the NRA is asking you to reach out to the women in your community. Consider offering women-only classes, or hosting successful programs such as Women On Target® Instructional Shooting Clinics or Refuse To Be A Victim® Seminars. Let us show you how to incorporate these programs into your NRA Education and Training modules. You'll not only build a whole new market for firearms training, but you'll be making your community a safer place, too.

We'll showcase your accomplishments in a variety of ways, including various NRA magazines. If you'll send us photos of yourself teaching other women, we'd like to use those to show other women what is available to them. Also, if you schedule a Women On Target® Instructional Shooting Clinic or a Refuse To Be A Victim® Seminar, NRA Media Relations Division can help promote your efforts by issuing media releases on your behalf. NRA Women's Programs will post clinics and seminars on its website at [www.nrawomen.org](http://www.nrawomen.org) and through various social networking sites, too. We'll help you every step of the way.

Can we count on you to be a part of a new initiative to help women become shooters, and to help women learn about other NRA Women's Programs? A simple yes or no answer is all we need. Please email us at [instructorupdate@nrahq.org](mailto:instructorupdate@nrahq.org), and we'll be in touch.

Kindest regards,

A handwritten signature in cursive script, appearing to read "Elizabeth D. Hellmann".

Elizabeth D. Hellmann  
NRA Women's Programs

Encl.: FID Brochure

Westchester  
gov.com

OFFICE USE ONLY

CASE #: 10-394/05-000

DETECTIVE: 7-5

Date: 7-1-10

State of New York  
Department of Mental Hygiene  
44 Holland Avenue  
Albany, New York 12229

**Re: Application for Firearm License**

Dear Sir or Madam:

It is hereby requested that you conduct a check of your records against the name of the below listed person, in accordance with New York State Penal Law, section 400 (4), and that you respond to this agency in writing, as soon as possible:

**APPLICANT: PLEASE COMPLETE THE BELOW LISTED INFORMATION:**

Name (Last): Dance First: Johanne M.I. C


Alias/ Maiden Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_  
STREET CITY STATE ZIP

Sex: M Social Security #: \_\_\_\_\_ of Birth: 10/2

Sincerely,

DEPARTMENT OF PUBLIC SAFETY  
Westchester County Police

  
George N. Longworth  
Commissioner/ Sheriff

WESTCHESTER COUNTY  
TIMOTHY C. IDONI  
Westchester County Clerk

Bring or mail to: W

03/10/2009

P# 40 PEN \$10.00 Cash  
H TOTAL \$10.00  
W

1 PEN-00

**PISTOL LICENSE RECERTIFICATION**

ORIGINAL LICENSE #

104518

**INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office with \$10.00 Certification Fee**

1. NAME: Johannis C. Nance DATE OF BIRTH: **REDACTED**  
2. ADDRESS: **REDACTED**  
3. CITY/TOWN/VILLAGE: **REDACTED** STATE: NY ZIP: **REDACTED**  
4. PHONE NUMBER HOME: \_\_\_\_\_ PHONE NUMBER WORK: 7  
5. LIST OF 5 WEAPON(S) ON OPPOSITE SIDE IS COMPLETE AND ACCURATE

Johannis C. Nance  
License Holder's Signature

Sworn to before me this 10<sup>TH</sup> day of MARCH, 2009

MARY FERENCI  
Notary Public, State of New York  
No. 04FE6126306  
Qualified in Westchester County  
Commission Expires May 2, 2009

Mary Ferenci  
Notary Public

FOR OFFICE USE ONLY

RECERTIFICATION LICENSE	APPROVED <input checked="" type="checkbox"/> NOT APPROVED <input type="checkbox"/>	DATE	COUNTY JUDGE
RECERTIFICATION DATE	10-29-14	4/30/09	<u>[Signature]</u>

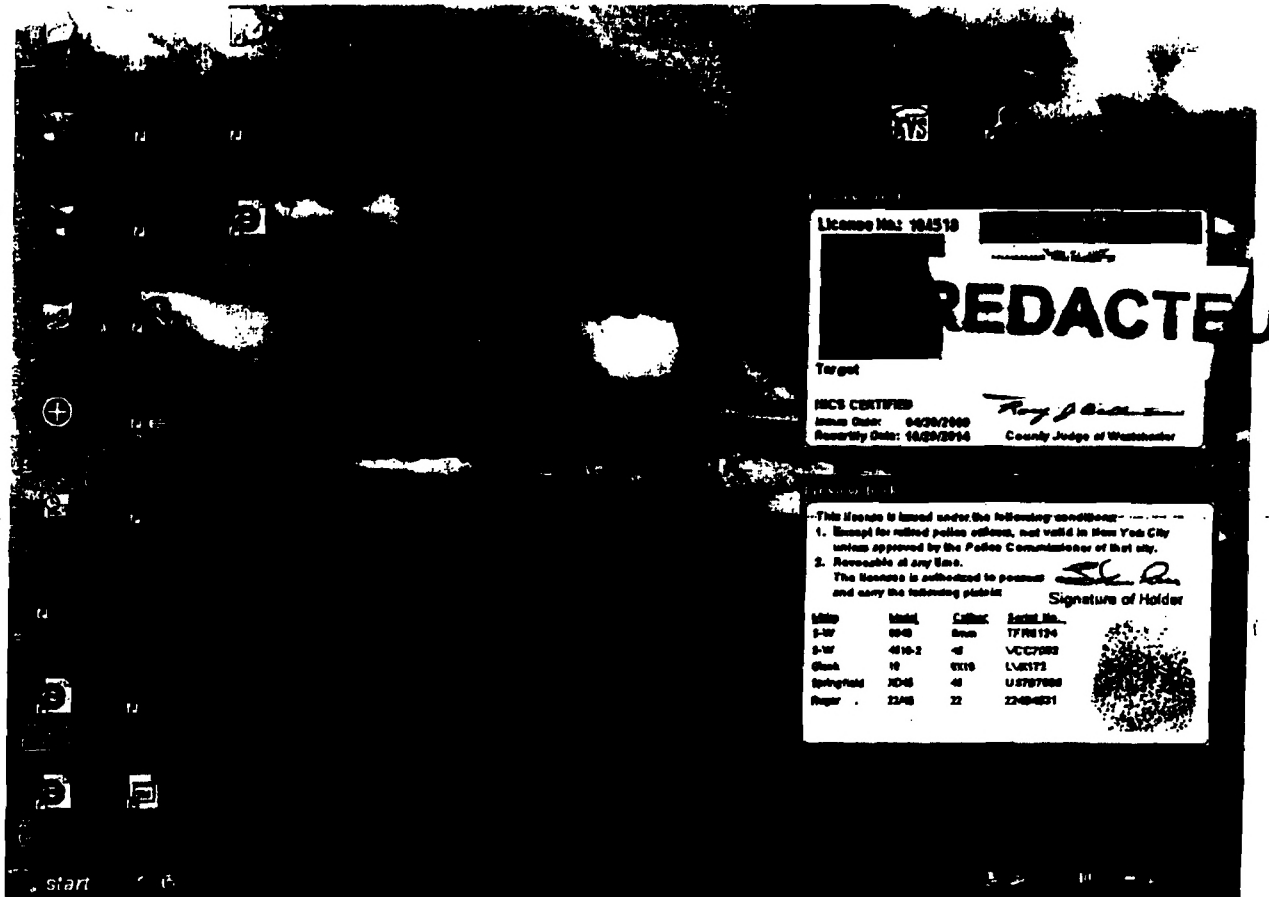
Revised: 1/19/2007

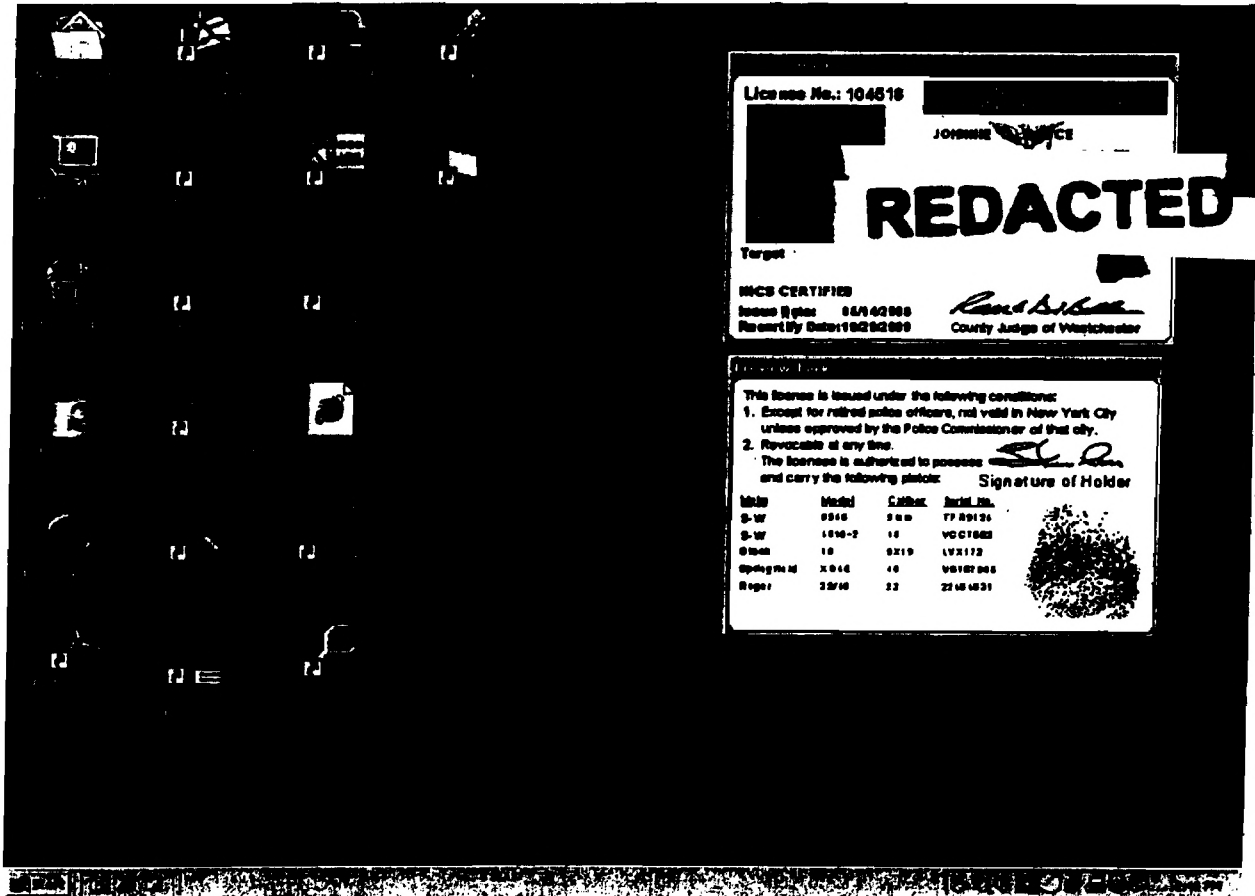
HON. RORY J. BELLANTONI  
ACTING JUSTICE SUPREME COURT

6. THE FOLLOWING WEAPON(S) ARE IN MY POSSESSION: (ATTACH ADDITIONAL SHEETS AS NECESSARY):

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
S-W	Auto	6946	9mm	JFR 9134
S-W	Auto	4376-2	45	VCC 7002
Glock	Auto	19	9x19	LVX 172
Springfield	Auto	XD 45	45	US707965
Ruger	Auto	22/45	22	22464831







D/OB	<b>REDACTED</b>	WESTCHESTER COUNTY
NYSID#		TIMOTHY C. IDONI County Clerk

**APPLICATION FOR AMENDED OR DUPLIC**

104518

ORIGINAL LICENSE #

INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office and include \$3.00 for Amendment or \$5.00 for duplicate.

NAME: <b>REDACTED</b> <b>REDACTED</b>		
Johnnie C. NANEY		
AGE: 49	HEIGHT: 6'1"	WEIGHT: 294

NOTE: Check box if purchase order is needed ☒**CIRCLE APPROPRIATE TRANSACTION(S)**

RESIDENCE CHANGE    DISPOSED    ACQUIRED    NAME CHANGE    RESTRICTION CHANGE    TRANSFER  
 DUPLICATE    SURRENDERED    SUSPENDED    REVOKED    DECEASED    OTHER \_\_\_\_\_

**L TO AMEND LICENSE COMPLETE 1 THROUGH 7 WHERE APPROPRIATE**

1. NAME \_\_\_\_\_ PHONE #'s: HOME \_\_\_\_\_ WORK \_\_\_\_\_

2. NEW ADDRESS \_\_\_\_\_

3. THE FOLLOWING WEAPON(S) HAVE BEEN ACQUIRED FROM: NAME Gander MountainADDRESS 100 N. Galleria Drive Middletown NY 10941LICENSE #/DEALER LICENSE #/SHIELD # 6-14-00588 IF MORE THAN ONE SELLER, CHECK THISBOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
Glock	Auto	19	9mm	LYX 172
Springfield Arm.	Auto	XD45	45ACP	US707965
Ruger	Auto	22/45	-22	224-64831

4. THE FOLLOWING WEAPON(S) HAVE BEEN DISPOSED TO: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

LICENSE #/DEALER LICENSE #/SHIELD # \_\_\_\_\_ IF MORE THAN ONE BUYER, CHECK THIS

BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

5. THE FOLLOWING WEAPON(S) HAVE BEEN: (CIRCLE ONE)    LOST    STOLEN    DESTROYED

LAW ENFORCEMENT AGENCY REPORTED TO: \_\_\_\_\_

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

6. AMEND LICENSE TO: (CIRCLE ONE)    ADD    DELETE    A RESTRICTIONIF AMENDMENT IS EMPLOYMENT RELATED, STATE THE FOLLOWING: (FOR A BUSINESS, EMPLOYMENT, OR FULL CARRY)  
I AM REQUESTING THAT THE RESTRICTION ON MY LICENSE BE CHANGED TO: \_\_\_\_\_

NAME:	STREET:	CITY/VILLAGE/TOWN:
-------	---------	--------------------

## 7. NAMES AND ADDRESS' OF BUYERS AND/OR SELLERS (IDENTIFY IF BUYER OR SELLER)

NAME	ADDRESS	WEAPON SERIAL #

(A separate list of buyers/sellers must be submitted in triplicate on plain white paper, if there are more than 4 buyers/sellers.)

**II. TO REQUEST A DUPLICATE LICENSE, COMPLETE AFFIDAVIT**

STATE OF NEW YORK                     )  
COUNTY OF WESTCHESTER         ) S.S.  
CITY/VILLAGE OF                     )

Full Name \_\_\_\_\_

Present Occupation \_\_\_\_\_

Name and Address of Employer \_\_\_\_\_

Serial number of lost license \_\_\_\_\_ Date of Issuance \_\_\_\_\_

Brief statement of circumstances under which permit was lost:

Statement of weapon (s) now in applicant's possession, which are to be registered on license:

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

(A separate list of guns must be submitted in triplicate on plain white paper, if applicant possesses more than 3 guns.)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Applicant's Signature

Notary Public

**III. TO BE COMPLETED BY ALL APPLICANTS**

Have you been arrested for any crime, been a patient at any mental institution, or had an order of protection issued against you since the last license was issued? (CIRCLE ONE) YES NO  
If yes, give details below:

Date and Place of Birth

**REDACTED REDACTED**

Foreign Born Citizens Only - Naturalization Certificate Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_ Court \_\_\_\_\_

I SWEAR THAT ALL THE ABOVE FACTS ARE TRUE TO THE BEST OF MY KNOWLEDGE

APPLICANT'S SIGNATURE

## FOR OFFICE USE ONLY

AMENDED LICENSE APPROVED ☒ NOT APPROVED ☐DUPLICATE LICENSE APPROVED ☐ NOT APPROVED ☐

EXPIRATION DATE \_\_\_\_\_

DATE

5/14/08

COUNTY JUDGE

Robert M. Bell

Revised: 1/12/2005

HON. ROBERT M. DIBELLA  
ACTING SUPREME COURT JUSTICE



Printed: 04/30/2008

INQUIRY DETAIL REPORT  
GM#250 - Walkkill FFL# 6-14-00588

Page: 1

**Firearm Information**

Serial Number: LVX172  
UPC: 764503195020  
Description: 4 "  
New/Used?: New

Manuf/Importer: Glock  
Model: 19  
Caliber/Gauge: 9X19  
Type: Pistol

**Acquisition Information**

Date: 03/05/2008  
Assoc.: 525205, patty c

**Acq From:**

GM#1 - CRW Lebanon FFL# 4-35-01430  
700 South Council Drive

Lebanon, IN 46052

**Disposition Information**

Date:  
Assoc.:

**Transfer/Sold To:**

LAYAWAY - # 10007449

Cost:

Retail:

Printed: 04/30/2008

INQUIRY DETAIL REPORT  
GM#250 - Walkill FFL# 6-14-00588

Page: 1

**Firearm Information**

Serial Number: US707965  
UPC: 706397866136  
Description: S4"  
New/Used?: New

Manuf/Importer: Springfield Armory u.s.a  
Model: XD-45  
Caliber/Gauge: .45 ACP  
Type: Pistol

**Acquisition Information**

Date: 01/24/2008  
Assoc.: 525205, patty c

**Acq From:**

GM#1 - CRW Lebanon FFL# 4-35-01430  
700 South Council Drive  
Lebanon, IN 46052

**Disposition Information**

Date:  
Assoc.:

**Transfer/Sold To:**

LAYAWAY - # 10007449

Cost:

Retail:

Printed: 04/30/2008

INQUIRY DETAIL REPORT  
GM#250 - Wallkill FFL# 6-14-00588

Page: 1

**Firearm Information**

Serial Number: 224-64831  
UPC: 499925026125  
Description:  
New/Used?: Used

**Current**

Manuf/Importer: Ruger  
Model: 22/45  
Caliber/Gauge: .22 caliber  
Type: Pistol

**Acquisition Information**

Date: 04/07/2008  
Assoc.: 525224, Gary Pawliczak

Acq From:

8. **REDACTED**

**Disposition Information**

Date:  
Assoc.:

Transfer/Sold To:

LAYAWAY - # 10007451

Cost:

Retail:

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION  
PUBLISHED WEEKLY

1945-46, 1946-47


[illegible]

TOTAL : 2201 1202

[illegible]

0000 110 22:19 AM

License No. 104518



JOHNNIE ~~SMITH~~ <sup>SMITH</sup>

**REDACTED**

Target

MCS CERTIFIED

Issue Date: 04/13/2005

Recertify Date: 10/23/2008

Not ~~Valid~~ <sup>M</sup>

Height: 5'6" Weight: 234

*John A. [Signature]*

County Judge of Westchester

**This license is issued under the following conditions:**

1. Except for retired police officers, not valid in New York City unless approved by the Police Commissioner of that city.

2. Revocable at any time. The licensee is authorized to possess and carry the following pistol:

**Signature of Holder**

RALE	HOPEI	GALLI	SPIDING
S-W	0040	0mm	TFR0124
S-W	4610-2	45	VCC7002

10:28 AM



Westchester  
gov.com

Andrew J. Spano  
County Executive

Department of Public Safety

Thomas Belfiore  
Commissioner/Sheriff

April 11, 2005

Honorable Justice  
Westchester County Court  
White Plains, NY 10601

Re: Mr. Johnnie C. Nance

**REDACTED**

Dear Honorable Justice:

The above captioned individual has submitted an application to this department for a New York State Pistol Permit:

**TARGET SHOOTING**

A search of the files of the Division of Criminal Justice Services in Albany reveals no derogatory information.

A search of the files of the New York State Department of Mental Hygiene reveals no derogatory information.

Letters from each of the four character references attesting to the good moral character and reputation of the applicant are on file.

The applicant is a citizen of the United States by virtue of birth as evidenced by a copy of the applicant's birth certificate.

There are no means available to this Office to further verify statements made on the application.

Application is hereby forwarded with whatever action you deem appropriate.

Should you require any additional information regarding our investigation of this applicant, please contact the Pistol Permit Unit at (914) 995-2709.

Sincerely,

*Thomas Belfiore*  
Thomas Belfiore  
Commissioner/Sheriff

TB/db/cf  
attachments

A New York State Accredited  
Law Enforcement Agency

Saw Mill River Parkway  
Hawthorne, New York 10532

March 4, 2005  
Telephone: (914)864-7700 Website: westchestergov.com



Westchester  
gov.com

Andrew J. Spano  
County Executive

Department of Public Safety

Thomas Belliore  
Commissioner/Sheriff

DATE: 3/9/11

## OFFICE USE ONLY

CASE #: 05-200

DET: D.S.

State of New York  
Department of Mental Hygiene  
44 Holland Avenue  
Albany, New York 12229

Re: Applicant for a New York State Pistol License

Dear Sir:

It is hereby requested that you check your records against the name of the following, in compliance with the New York State Penal Law, Subdivision 4, Section 400.00:

## PLEASE FILL IN INFORMATION:

Name: Johnnie Nance

Aliases and/or Maiden Name: \_\_\_\_\_

Address: **REDACTED** **REDACTED**

Date of Birth: **REDACTED**

Place of Birth: **REDACTED**

Sex: MALE

Your cooperation is greatly appreciated.

Very truly yours,

*Thomas Belliore*

Thomas Belliore  
Commissioner/Sheriff

NO OFFICIAL RECORD OF HOSPITALIZATION  
FOR MENTAL ILLNESS SINCE 1965. IF SEARCH  
PRIOR TO 1965 IS REQUIRED, PLEASE SUBMIT  
WRITTEN REQUEST.

A New York State Accredited  
Law Enforcement Agency

Saw Mill River Parkway  
Hawthorne, New York 10532

Telephone: (914)864-7700 Website: westchestergov.com





Memorandum  
Department of Public Safety

**PISTOL LICENSE APPLICATION QUESTIONNAIRE**

**ANSWER ALL QUESTIONS FULLY: ATTACH SEPARATE SHEETS IF NECESSARY**

LAST NAME: REDACTED FIRST: REDACTED M.I. REDACTED  
ADDRESS: REDACTED

ALIAS REDACTED SEX M RACE BLK HAIR BLK EYES BLU WEIGHT 244

HEIGHT: 6'1" D.O.B. REDACTED PLACE OF BIRTH REDACTED

1) ☒ CITIZEN BY BIRTH  
NATURALIZED CITIZEN - NATURALIZATION NUMBER REDACTED  
RESIDENT ALIEN ALIEN REGISTRATION NO. REDACTED

2) MARITAL STATUS: REDACTED IF FEMALE, MAIDEN NAME REDACTED  
SINGLE  
☒ MARRIED REDACTED DIVORCED REDACTED NUMBER OF CHILDREN AT HOME REDACTED

3) LIST ALL PLACES OF RESIDENCE FOR THE LAST FIVE YEARS.

REDACTED REDACTED  
REDACTED

3a) PHONE NUMBER (H) REDACTED (W) REDACTED

4) LIST ALL PLACES OF EMPLOYMENT FOR THE PAST FIVE YEARS:

REDACTED

5) LIST ALL PISTOLS YOU WILL BE REGISTERING:

Make Smith & Wesson - Model 6446 - Serial # TFR9124 - Cal 9mm  
Make Smith & Wesson - Model 4516 - Serial # VCC 7002 - Cal 45ACP

6) HOW AND WHERE WILL PISTOLS BE SAFEGUARDED WHEN NOT IN USE:

in locked box

7) GIVE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PERSON WHO WILL SAFEGUARD THE PISTOL (S) IN THE EVENT OF YOUR DEATH OR DISABILITY:

REDACTED REDACTED

8) LIST THE NEAREST RELATIVES NOT LIVING WITH YOU:

1) NAME REDACTED ADDRESS REDACTED

2) NAME Patricia Wana PHONE NO. REDACTED  
ADDRESS REDACTED

- OVER -



DEPARTMENT OF PUBLIC SAFETY  
WESTCHESTER COUNTY POLICE  
PISTOL LICENSE UNIT

PISTOL LICENSE APPLICATION SUPPLEMENT

**INSTRUCTIONS:** Read each question carefully and answer each question in black ink. Place a check mark in the box which represents your response. You MUST have this form NOTARIZED.

- 1) Do you have, or have you ever had, an Order of Protection issued against you?  
YES ☐ NO ☒
- 2) Do you have, or have you ever had, an Order of Protection issued by you against a member of your household or any family member?  
YES ☐ NO ☒
- 3) Do you have, or have you ever had, an Order of Protection issued by you against a person other than a member of your household or family?  
YES ☐ NO ☒

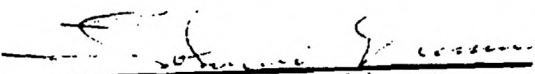
\* **Note:** If you have checked YES to question one (1), you **MUST** attach a signed and notarized letter explaining your answer and include the following information:

- A. The court of issuance
- B. The date of issuance
- C. Complainant's name
- D. Complainant's address
- E. Complainant's telephone number
- F. Complainant's relationship to you
- G. Reason for issuance of Order of Protection

\* **Note:** If you checked YES to either question two (2) or question three (3), you **MUST** attach a signed and notarized letter explaining your answer and include the following information:


- A. The court of issuance
- B. The date of issuance
- C. Respondent's name
- D. Respondent's address
- E. Respondent's telephone number
- F. Respondent's relationship to you
- G. Reason for issuance of Order of Protection

I, the undersigned applicant, being duly sworn, deposes and says under penalty of perjury that all of the aforementioned answers are true to the best of my knowledge.

  
Signature of Applicant

STATE OF NEW YORK  
COUNTY OF WESTCHESTER

Sworn to before me this 19 day  
of FEB, 1997

  
Notary Public, State of New York

  
Affix Seal Above

WALTON A. WALLACE, JR.

**REDACTED**

NRA CERT. # 18539852

To Whom It Might Concern,

This Letter is to Certify that the below named Student has successfully completed the NRA BASIC PISTOL SAFETY COURSE as follows:

Lesson I: Pistol Knowledge and Safe Gun Handling.

Lesson II: Ammunition Knowledge and The Fundamentals of Pistol Shooting.

Lesson IV: Two Handed and One Handed Standing Shooting Positions.

Lesson V: Pistol Sports Activities.

In Addition: Care, Cleaning and the Proper Storage of Firearms, specifically pistols, have been explained.

Lesson III: Deals with the Actual Shooting of the Pistol.

Since New York State Law does not permit a student to handle a Firearm until their license has been approved a follow up lesson is provided. When the Student has obtained His / Her Permit, they will return for Proper Instruction on the Firing Range.

STUDENT NAME: JOHN W. E. WALLACE

DATE OF COURSE: 4/18/04, 4/25/04

COURSE REFERENCE MATERIAL: THE BASICS OF PISTOL SHOOTING  
Published by The NRA

WALTON A. WALLACE JR.

Walton A. Wallace Jr.



# THE NATIONAL RIFLE ASSOCIATION OF AMERICA

Awards this certificate to

*JOHNNIE MAWCE*

for successful completion of the

## NRA BASIC PISTOL COURSE

*Blues Mt. Sportsmen Center*

Issued at

*Walter A. Wallace Jr.*

NRA Certified Instructor

*NRA # 18539852*

*25 APRIL 2004*

Date

*Edward J. Lindberg*

NRA Secretary



NCIC SEARCH

REDACTED

NCIC SEARCH

REDACTED

NCIC SEARCH

REDACTED

INSTRUL 3: Print or type in black ink

NYSID NUMBER 104518

STATE OF NEW YORK

PISTOL/REVOLVER LICENSE APPLICATION

COUNTY OF ISSUE WESTCHESTER

EXPIRATION DATE 1/1/29

DATE OF ISSUE 07/19/05

LAST NAME NANCE

FIRST NAME JOHN

EMPLOYED BY PREMIER DISTRIBUTION

NATURE OF BUSINESS TRANSPORTATION

HEREBY APPLY FOR A PISTOL/REVOLVER LICENSE TO: (Check one only)

☒ CARRY CONCEALED ☐ POSSESS ON PREMISE

☐ POSSESS/CARRY DURING EMPLOYMENT (\* Premise address or place of employment must be provided)

STREET ADDRESS OR OTHER LOCATION CITY, VILLAGE, TOWN ZIP CODE

A LICENSE IS REQUIRED FOR THE FOLLOWING REASON:

TARGET

GIVE FOUR CHARACTER REFERENCES WHO BY THEIR SIGNATURE ATTEST TO YOUR GOOD MORAL CHARACTER

LAST, FIRST, MI

Hargrove Richard

Hargrove Shirley

HURAS EDWARD

Sarah Mural

REDACTED

REDACTED

REDACTED

REDACTED

HAVE YOU EVER BEEN ARRESTED OR INDICTED ANYWHERE FOR ANY OFFENSE, INCLUDING DWI (EXCEPT TRAFFIC INFRACTIONS)?

☐ YES ☒ NO IF YES, FURNISH THE FOLLOWING INFORMATION:

DATE	POLICE AGENCY	CHARGE	DISPOSITION - COURT AND DATE

HAVE YOU EVER BEEN TERMINATED/DISCHARGED FROM ANY EMPLOYMENT OR THE ARMED FORCES FOR CAUSE? ☐ YES ☒ NO

HAVE YOU EVER UNDERGONE TREATMENT FOR ALCOHOLISM OR DRUG USE? ☐ YES ☒ NO

HAVE YOU EVER SUFFERED ANY MENTAL ILLNESS, OR BEEN CONFINED TO ANY HOSPITAL, PUBLIC OR PRIVATE INSTITUTION, FOR MENTAL ILLNESS? ☐ YES ☒ NO

HAVE YOU EVER HAD A PISTOL LICENSE, DEALER'S LICENSE, GUNSMITH LICENSE, OR ANY APPLICATION FOR SUCH A LICENSE DISAPPROVED, OR HAD SUCH A LICENSE REVOKED OR CANCELLED? ☐ YES ☒ NO

DO YOU HAVE ANY PHYSICAL CONDITION WHICH COULD INTERFERE WITH THE SAFE AND PROPER USE OF A HANDGUN? ☐ YES ☒ NO

HAVE YOU EVER BEEN CHARGED, PETITIONED AGAINST, A RESPONDENT, OR OTHERWISE BEEN A SUBJECT OF A PROCEEDING IN FAMILY COURT? ☐ YES ☒ NO

IF ANSWER TO ANY QUESTION IS YES, EXPLAIN HERE:



BY OMISSION OF FACT OR ANY FALSE STATEMENT WILL BE SUFFICIENT CAUSE TO DENY THIS APPLICATION AND CONSTITUTES A CRIME PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH.

AM AWARE THAT THE FOLLOWING CONDITIONS AFFECT ANY LICENSE WHICH MAY BE ISSUED TO ME:

NO LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS VALID IN THE CITY OF NEW YORK. ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION WILL BE VALID ONLY FOR A PISTOL OR REVOLVER SPECIFICALLY DESCRIBED IN THE LICENSE PROPERLY ISSUED BY THE LICENSING OFFICER. IF I PERMANENTLY CHANGE MY ADDRESS, NOTICE OF SUCH CHANGE AND MY NEW ADDRESS MUST BE FORWARDED TO THE SUPERINTENDENT OF THE STATE POLICE AND IN NASSAU COUNTY AND SUFFOLK COUNTY, TO THE LICENSING OFFICER OF THAT COUNTY WITHIN 10 DAYS OF SUCH CHANGE. ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS SUBJECT TO REVOCATION AT ANY TIME BY THE LICENSING OFFICER OR ANY JUDGE OR JUSTICE OF A COURT OF RECORD.

JURAT:

SIGNED AND SWORN TO BEFORE ME

THIS 19 DAY OF FEB 20 05

AT WESTCHESTER COUNTY, NEW YORK

SIGNATURE OF APPLICANT

SIGNATURE OF OFFICER ADMINISTERING OATH

NOTARY PUBLIC

TITLE OF OFFICER

THIS FORM APPROVED BY SUPERINTENDENT OF STATE POLICE AS REQUIRED BY PENAL LAW SECTION 400.00, SUBD. 3.

APPLICATION NOT VALID UNLESS SWORN



1. RIGHT THUMB	2. RIGHT FOREFINGER	3. RIGHT MIDDLE FINGER	4. RIGHT RING FINGER	5. RIGHT LITTLE FINGER
----------------	---------------------	------------------------	----------------------	------------------------

**REDACTED** **REDACTED** **REDACTED**

**REDACTED**

6. LEFT THUMB	7. LEFT FOREFINGER	8. LEFT MIDDLE FINGER	9. LEFT RING FINGER	10. LEFT LITTLE FINGER
---------------	--------------------	-----------------------	---------------------	------------------------

**REDACTED** **REDACTED** **REDACTED**

PLAIN IMPRESSIONS TAKEN SIMULTANEOUSLY		
LEFT FOUR FINGERS		RIGHT FOUR FINGERS

**REDACTED** **REDACTED** **REDACTED**

**REDACTED** **REDACTED** **REDACTED**

**REDACTED** **REDACTED** **REDACTED**

**REDACTED** **REDACTED** **REDACTED**

IMPRESSIONS TAKEN BY: NAME Dan Byrnes RANK Det. SHIELD 34 DATE 3/9/15

APPLICANT'S SIGNATURE AND ADDRESS [Signature]

INVESTIGATION REPORT - ALL INFORMATION PROVIDED BY THIS APPLICANT HAS BEEN VERIFIED.

NAME Dan Byrnes RANK Det. ORGANIZATION UCPD

RECOMMEND APPROVAL - DISAPPROVAL (STRIKE OUT ONE) APPROVED 4/19/05

THIS APPLICATION IS APPROVED DISAPPROVED (STRIKE OUT ONE) THE FOLLOWING RESTRICTION(S) IS (ARE) APPLICABLE TO THIS LICENSE: T/S

TITLE AND SIGNATURE OF LICENSING OFFICER [Signature]

IF LICENSING OFFICER AUTHORIZES THE POSSESSION OF A PISTOL OR REVOLVER AT THE TIME OF ISSUE C ORIGINAL LICENSE, FURNISH THE FOLLOWING INFORMATION:

MANUFACTURER	PISTOL OR REVOLVER	CALIBER	SERIAL NUMBER	MODEL	PROPERTY OF
Smith & Wesson	Pistol	9mm	TFR 9124	6946	ALL County's Sport
Smith & Wesson	Pistol	45ACP	VCC 7002	4516-2	677 Yonkers Ave
					Yonkers NY 10504
					NY Dealers NY
					104245-F

DUPLICATE OF THIS APPLICATION MUST BE FILED WITH THE SUPERINTENDENT OF STATE POLICE WITHIN 10 DAYS OF ISSUANCE AS REQUIRED BY PENAL LAW SECTION 400.00 SUBD. 5.

# EXHIBIT J

05 267 (10-597)

D/O/B	<b>REDACTED</b>	WESTCHESTER COUNTY
NYSID#	<b>REDACTED</b>	TIMOTHY C. IDONI County Clerk

## APPLICATION FOR AMENDED OR DUPLICATE P.

104519  
ORIGINAL LICENSE #

INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office and include \$3.00 for Amendment or \$5.00 for duplicate.

NAME: ANNA MARCUCCI-NANCE		<b>REDACTED</b>	<b>REDACTED</b>
AGE: 44	HEIGHT: 5'5"	WEIGHT: 235	NOTE: Check box if purchase order is needed <input checked="" type="checkbox"/>

## CIRCLE APPROPRIATE TRANSACTION (S)

RESIDENCE CHANGE DISPOSED ACQUIRED NAME CHANGE RESTRICTION CHANGE TRANSFER  
DUPLICATE SURRENDERED SUSPENDED REVOKED DECEASED OTHER

## I. TO AMEND LICENSE COMPLETE 1 THROUGH 7 WHERE APPROPRIATE

1. NAME ANNA MARCUCCI-NANCE PHONE #s: **REDACTED** **REDACTED**

2. NEW ADDRESS

3. THE FOLLOWING WEAPON (S) HAVE BEEN ACQUIRED FROM: NAME GANDER MTN

ADDRESS 100 NORTH GALLERIA DR. MIDDLETOWN NY 10941

LICENSE #/DEALER LICENSE #/SHIELD # FFL# 16-14-00588 IF MORE THAN ONE SELLER, CHECK THIS

BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
HERITAGE	REV	ROUGH RIBER	- 22	G 37997

4. THE FOLLOWING WEAPON (S) HAVE BEEN DISPOSED TO: NAME GANDER MTN

ADDRESS 100 NORTH GALLERIA DR. MIDDLETOWN NY 10941

LICENSE #/DEALER LICENSE #/SHIELD # FFL# 16-14-00588 IF MORE THAN ONE BUYER, CHECK THIS

BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
S&W	SEMI-AUTO		9MM	TFR 9124

5. THE FOLLOWING WEAPON (S) HAVE BEEN: (CIRCLE ONE) LOST STOLEN DESTROYED

LAW ENFORCEMENT AGENCY REPORTED TO:

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

6. AMEND LICENSE TO: (CIRCLE ONE)

ADD

DELETE

A RESTRICTION

IF AMENDMENT IS EMPLOYMENT RELATED, STATE THE FOLLOWING: (FOR A BUSINESS, EMPLOYMENT, OR FULL CARRY)  
I AM REQUESTING THAT THE RESTRICTION ON MY LICENSE BE CHANGED TO: FULL CARRY

NAME: ANNA MARCUCCI-NANCE	<b>REDACTED</b>	ITY/VILLAGE/TOWN: <b>REDACTED</b>
---------------------------	-----------------	-----------------------------------



## 7. NAMES AND ADDRESS' OF BUYERS AND/OR SELLERS (IDENTIFY IF BUYER OR SELLER)

NAME	ADDRESS	WEAPON SERIAL #

(A separate list of buyers/sellers must be submitted in triplicate on plain white paper, if there are more than 4 buyers/sellers.)

**II. TO REQUEST A DUPLICATE LICENSE, COMPLETE AFFIDAVIT**STATE OF NEW YORK  
COUNTY OF WESTCHESTER  
CITY/VILLAGE OF

S.S.

Full Name ANNA L. MARCUCCI-NANCEPresent Occupation TRAIN OPERATORName and Address of Employer NYCT 130 LIVINGSTON ST BROOKLYN NY 11201

Serial number of lost license \_\_\_\_\_

Date of Issuance \_\_\_\_\_

Brief statement of circumstances under which permit was lost:

N/A

Statement of weapon (s) now in applicant's possession, which are to be registered on license:

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

(A separate list of guns must be submitted in triplicate on plain white paper, if applicant possesses more than 3 guns.)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Applicant's Signature \_\_\_\_\_

Notary Public \_\_\_\_\_

**III. TO BE COMPLETED BY ALL APPLICANTS**Have you been arrested for any crime, been a patient at any mental institution, or had an order of protection issued against you since the last license was issued? (CIRCLE ONE) YES NO

If yes, give details below:

Date and Place of Birth \_\_\_\_\_

Foreign Born Citizens Only - Naturalization Certificate Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_ Court \_\_\_\_\_

I SWEAR THAT ALL THE ABOVE FACTS ARE TRUE TO THE BEST OF MY KNOWLEDGE

APPLICANT'S SIGNATURE Anna Marcucci-Nance

FOR OFFICE USE ONLY

AMENDED LICENSE APPROVED ☒NOT APPROVED ☒

DATE

COUNTY JUDGE

DUPLICATE LICENSE APPROVED ☐NOT APPROVED ☐

SEP 10 2010

EXPIRATION DATE \_\_\_\_\_

HON. ROBERT K. HOLDMAN



Robert P. Asterino  
County Executive

Director of the Office of the County Executive

George N. Longmire  
County Commissioner

August 11, 2010

Honorable Justice  
Westchester County Court  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, New York 10601

Re: Pistol License amendment of Anna L. Marcucci-Nance

**REDACTED**

Dear Honorable Justice:

The above captioned individual has submitted an application to Westchester County to amend his New York State (NYS) Pistol License to allow the category of **FULL CARRY**.

The applicant is currently licensed by Westchester County for the purpose of Target Shooting (#104519). This amendment application is for the following:

- 1) Delete Target Shooting.
- 2) Add Full Carry.
- 3) Delete one (1) firearm.
- 4) Add one (1) firearm.

A name based criminal background and related database check through the National Instant Criminal Background check system was conducted. No derogatory information was uncovered. In addition, a query of the files of the NYS Department of Mental Hygiene also revealed no derogatory information.

The applicant submitted notarized documentation attesting that 1) she is a citizen in good standing in the community with many family and social ties, and 2) she is steadily employed and stable and of good moral character, and 3) she has a desire to become involved in competitive shooting at various ranges, and 4) the NRA has offered to partner with her to provide all female classes to women, and 5) she would like to use her NRA Instructor Safety Certifications to promote safe gun handling at various locations and having a full carry permit would facilitate these endeavors.

New York State Assembly  
Law Enforcement Agency

150 West Market Street  
Harrison, NY 10529

Telephone: (914) 891-7700



RECEIVED

Website: www.westchester.ny.us



Anna L. Marcucci-Nance  
August 11, 2010  
Page 2 of 2

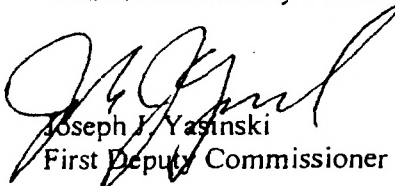
It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant. No safety related concerns have been cited by the applicant in support of the license sought. The applicant's current firearm license would appear to cover the sport target shooting related endeavors that she has cited. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public.

This application is respectfully forwarded with the following recommendations:

The category of **Full Carry** is recommended for **DISAPPROVAL**.  
The addition of one firearm to license is recommended for **APPROVAL**.  
The deletion of one firearm from license is recommended for **APPROVAL**.

Sincerely,

DEPARTMENT OF PUBLIC SAFETY  
Westchester County Police



Joseph J. Yasinski  
First Deputy Commissioner

JJY/fd

Chief Inspector's Endorsement

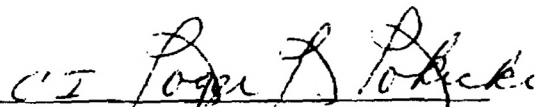
August 5, 2010

RE: Pistol License Amendment – **TARGET SHOOTING ADD FULL CARRY ADD ONE FIREARM  
DELETE ONE FIREARM**

Ms. Anna L. Marcucci-Nance, Pistol License #104519

I have reviewed the attached investigative report and the foregoing comments of Sergeant Bruce Bellom and Lieutenant Frank Donovan. I concur with both of their recommendations.

Forwarded to First Deputy Commissioner Joseph J. Yasinski and recommend **disapproval** of this application amendment to Pistol License #104519 to add the category of **FULL CARRY** firearm license for the applicant. Recommend **approval** of the addition of one firearm and deletion of one firearm to the license of the applicant.

  
Chief Inspector Roger R. Rokicki  
Chief of Administrative Services

RRR/jw

08/03/2010: Endorsement by Lieutenant Frank J. Donovan of memorandum by Sergeant Bellom dated 08/03/2010 entitled: Pistol License amendment of Anna L. Marcucci-Nance (FC).

The applicant is currently licensed by Westchester County for the purpose of Target Shooting (#104519). This amendment application is for the following:

- 1) Delete Target Shooting.
- 2) Add Full Carry.
- 3) Delete one (1) firearm.
- 4) Add one (1) firearm.

The applicant submitted notarized documentation attesting that 1) she is a citizen in good standing in the community with many family and social ties, and 2) she is steadily employed and stable and of good moral character, and 3) she has a desire to become involved in competitive shooting at various ranges, and 4) the NRA has offered to partner with her to provide all female classes to women, and 5) she would like to use her NRA Instructor Safety Certifications to promote safe gun handling at various locations and having a full carry permit would facilitate these endeavors.

It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant. No safety related concerns have been cited by the applicant in support of the license sought. The applicant's current firearm license would appear to cover the sport target shooting related endeavors that she has cited. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public.

I concur with Sergeant Bellom and recommend the following:

The category of **Full Carry** is recommended for **DISAPPROVAL**.

The addition of one firearm to license is recommended for **APPROVAL**.

The deletion of one firearm from license is recommended for **APPROVAL**.


Forward to Chief Inspector Roger R. Rokicki.



Lieutenant Frank J. Donovan



Memorandum  
Department of Public Safety

DATE: August 3, 2010  
TO: Lt. Frank Donovan  
FROM: Sgt. Bruce Bellom #15   
RE: Pistol License amendment of Anna L. Marcucci-Nance

The above captioned individual has submitted an application to Westchester County to amend his New York State (NYS) Pistol License to allow the category of **FULL CARRY**.

The applicant is currently licensed by Westchester County for the purpose of Target Shooting (#104519). This amendment application is for the following:

- 1) Delete Target Shooting.
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A name based criminal background and related database check through the National Instant Criminal Background check system was conducted. No derogatory information was uncovered. In addition, a query of the files of the NYS Department of Mental Hygiene also revealed no derogatory information.

The applicant submitted notarized documentation attesting that 1) she is a citizen in good standing in the community with many family and social ties, and 2) she is steadily employed and stable and of good moral character, and 3) she has a desire to become involved in competitive shooting at various ranges, and 4) the NRA has offered to partner with her to provide all female classes to women, and 5) she would like to use her NRA Instructor Safety Certifications to promote safe gun handling at various locations and having a full carry permit would facilitate these endeavors.

It appears that the necessary proper cause for the issuance of a firearm license for the purpose of Full Carry has not been met by the applicant. The applicant has not demonstrated an exceptional need for self protection distinguishable from that of the general public.

This application is respectfully forwarded with the following recommendations:

The category of **Full Carry** is recommended for **DISAPPROVAL**.

The addition of one firearm to license is recommended for **APPROVAL**.



Westchester  
gov.com

OFFICE USE ONLY

CASE #: 10 597

DETECTIVE: FO

Date: 7/20/10

State of New York  
Department of Mental Hygiene  
44 Holland Avenue  
Albany, New York 12229

**Re: Application for Firearm License**

Dear Sir or Madam:


It is hereby requested that you conduct a check of your records against the name of the below listed person, in accordance with New York State Penal Law, section 400 (4), and that you respond to this agency in writing, as soon as possible:

**APPLICANT: PLEASE COMPLETE THE BELOW LISTED INFORMATION:**

Name (Last): Worcester Nance First: Anna M.I.: **REDACTED**  
Alias/ Maiden Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Address: **REDACTED** **REDACTED**  
STREET CITY STATE ZIP  
Sex: F Social Security #: **REDACTED** Place of Birth: **REDACTED**

Sincerely,

DEPARTMENT OF PUBLIC SAFETY  
Westchester County Police

  
George N. Longworth  
Commissioner/ Sheriff

Printed: 06/30/2010

INQUIRY DETAIL REPORT  
GM#250 - Wallkill FFL# 6-14-00588

Page: 1

## Firearm Information

Serial Number: tfr9124  
UPC: 499925041172  
Description: two mags total  
New/Used?: Used

## Current

Manuf/Importer: smith & wesson 6946  
Model: 6946  
Caliber/Gauge: 9mm  
Type: Pistol

## Acquisition Information

Date: 06/29/2010  
Assoc.: 531411, JT DESIMONE

## Acq From:

anna I marcucci-nance

26

y

**REDACTED**

## Disposition Information

Date:  
Assoc.:

Cost:

Retail:

## Transfer/Sold To:



# Used Firearm Purchase Agreement Customer Copy

GM#250 - Wallkill FFL# 6-14-00588  
100 N. Galleria Dr

Middle Town, NY 10941  
(845) 692-5600

Entered Date: 06/29/2010

Printed Date: 06/29/2010 12:29 pm

## Customer Information:

Name: anna l marucci

Address: **REDACTED**

City:

State: **REDACTED** Zip: **REDACTED**

Phone:

County:

Drivers Lic.:

**REDACTED**

## Firearm Information:

UPC: 499925041272

Manufacturer: Smith & Wesson

Model: 910S

Cal/Gauge: 9mm Luger

Grade: Good

Barrel Length: 3-3/4in FS

Serial Number: tfr9124

Cost: \$225.00

Department: Used Firearms

Class: Handguns

Subclass: Semi-Auto Pistol

GANDER MOUNTAIN #250  
(845)692-5600  
Mon-Sat 9am-9pm  
Sundays 10am-6pm

SERIAL NUMBER tfr9124

PAID OUT

SED GUN PAID OUT \$225.00

TOTAL \$225.00-

CASH \$225.00-

CUSTOMER COPY

6-29-2010 12:32:20 0250 45 531411 1280 JT.Des.

Printed: 06/29/2010

INQUIRY DETAIL REPORT  
GM#250 - Walkill FFL# 6-14-00588

Page: 1

## Firearm Information

Serial Number: G37997  
 UPC: 727962500316  
 Description: 6.5" heritage rough  
 New/Used?: New

Manuf/Importer: heritage  
 Model: rough rider  
 Caliber/Gauge: .22 caliber  
 Type: Revolver

GANDER MOUNTAIN #250  
 (845)692-5600  
 Mon-Sat 9am-9pm  
 Sundays 10am-6pm

LAYAWAY SALE  
 LAYAWAY NUMBER 10011499  
 CUSTOMER NAME: Anna Marcucci-Nance  
 PHONE:

**REDACTED**

ADDRESS:

CITY:

STATE:

ZIP:

**REDACTED**

ROUGH RIDER: 22 WIN MAG: 6-1/2IN FS: RIGHT:  
 727962500316 199.99 TC

SERIAL NUMBER G37997

SUBTOTAL	\$199.99
New York State Tax	\$8.00
CNTY TAX 4.125%	\$8.25
LAYAWAY SALE TOTAL	\$216.24

LAYAWAY DEPOSIT	\$216.24
-----------------	----------

TOTAL	\$216.24
CASH	\$220.00
CHANGE	\$3.76

BALANCE DUE	\$0.00
-------------	--------

All items on Layaway will be held for 90 days. If the items are not picked up within 90 days, the items will be returned to stock. A \$25.00 restocking fee will be charged for all cancelled layaways.

## CUSTOMER COPY

ITEMS 1 Robert H  
 06-29-2010 12:45:58 0250 26 525287 2021

3 Ways To Shop  
 In Store, Online and Catalog!





June 16, 2010

Dear NRA Certified Instructor,

Perhaps you've seen it, too – a dramatic rise in the demand for NRA classes for women. It's true that there has never been a greater need for firearms training for women. Often, the request for information on such classes is accompanied by the comment, "I'd like to take a class taught by a woman."

Women who seek firearms instruction often encounter obstacles. Some are discouraged because of stereotypical gender roles, and others mistakenly believe that they do not have a place in a field that is dominated by men. With that in mind, the NRA is asking you to reach out to the women in your community. Consider offering women-only classes, or hosting successful programs such as Women On Target® Instructional Shooting Clinics or Refuse To Be A Victim® Seminars. Let us show you how to incorporate these programs into your NRA Education and Training modules. You'll not only build a whole new market for firearms training, but you'll be making your community a safer place, too.

We'll showcase your accomplishments in a variety of ways, including various NRA magazines. If you'll send us photos of yourself teaching other women, we'd like to use those to show other women what is available to them. Also, if you schedule a Women On Target® Instructional Shooting Clinic or a Refuse To Be A Victim® Seminar, NRA Media Relations Division can help promote your efforts by issuing media releases on your behalf. NRA Women's Programs will post clinics and seminars on its website at [www.nrawomen.org](http://www.nrawomen.org) and through various social networking sites, too. We'll help you every step of the way.

Can we count on you to be a part of a new initiative to help women become shooters, and to help women learn about other NRA Women's Programs? A simple yes or no answer is all we need. Please email us at [instructorupdate@nrahq.org](mailto:instructorupdate@nrahq.org), and we'll be in touch.

Kindest regards,

A handwritten signature in cursive script, appearing to read "Elizabeth D. Hellmann".

Elizabeth D. Hellmann  
NRA Women's Programs

Encl.: FID Brochure



# WESTCHESTER COUNTY POLICE PISTOL LICENSE UNIT

ATTACHMENT: FULL CARRY

OFFICE USE ONLY

CASE#: \_\_\_\_\_

DET: \_\_\_\_\_

Answer all questions fully and in accordance with the guidelines set forth in the Pistol Safety & Information Handbook. This form and attachments must be notarized.

## APPLICANT INFORMATION:

Last Name: MARCUCCI-NANCE First Name: ANNA M.I. L  
 Address: REDACTED REDACTED REDACTED  
 STREET CITY STATE ZIP

List all factors which you believe to be relevant to your application and which establish proper cause for issuance of a firearm license for the purpose of Full Carry:

The following is intended to show cause for a restriction change from TARGET to FULL CARRY.

I am a citizen in good standing in the community with many familial and social ties. I am steadily employed and stable. I am of good moral character. My intent to change restriction is due to my desire to become involved in Competitive target shooting at various range locations. Also, the NRA has offered to partner with me to provide all female classes to women.

I would like to use my NRA Instructor Safety Certifications to promote safe gun handling at various locations. Having a full carry permit would facilitate these endeavors.

Thanking you in advance for your consideration.

Anna Harwood - Vance  
APPLICANT NAME (PRINT)

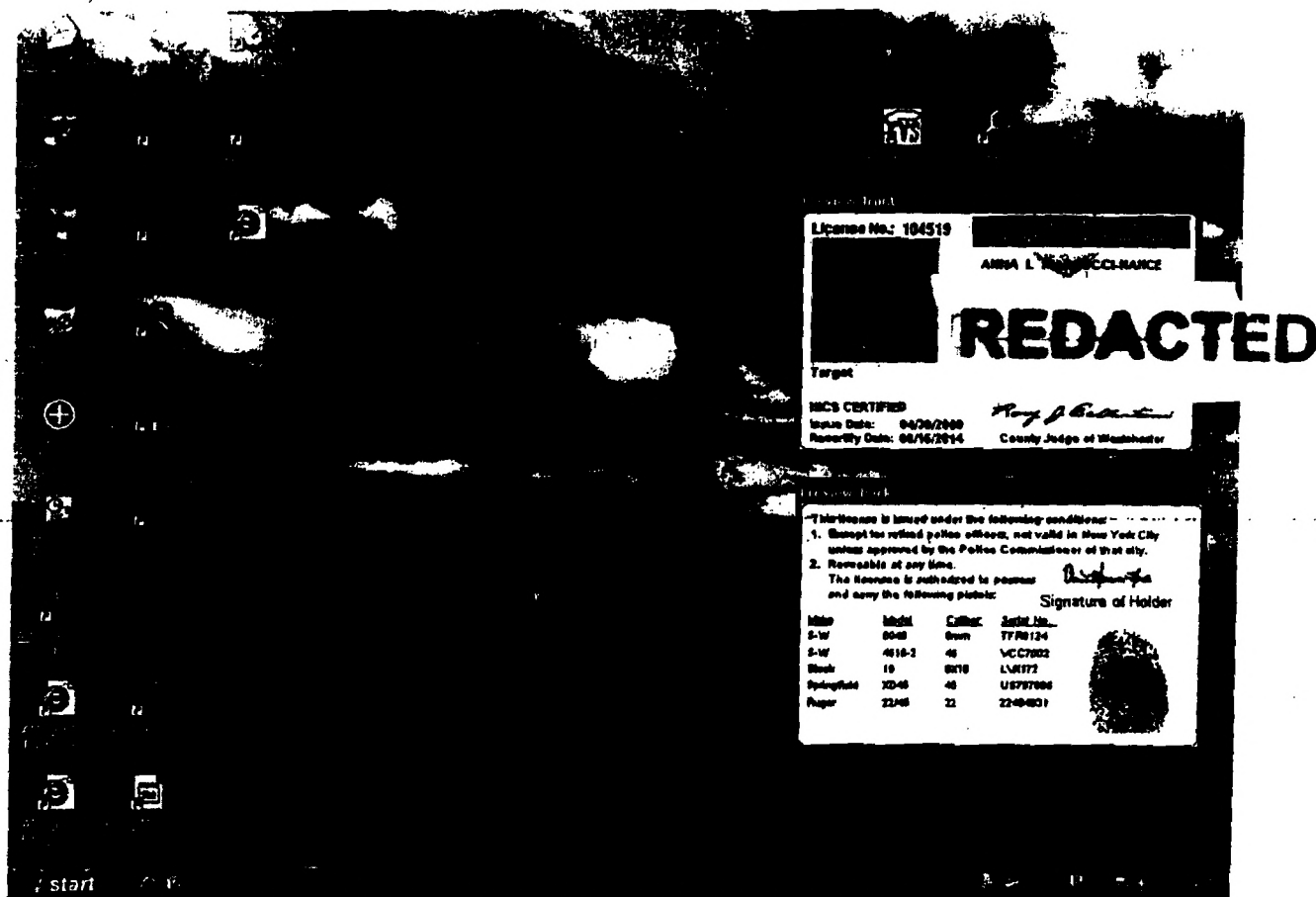
Anna Harwood - Vance  
APPLICANT NAME (SIGNATURE)

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER         )

SUBSCRIBED AND SWORN TO BEFORE ME THIS 30 DAY OF JUNE YEAR 2010

Dulce Marina Washburn  
SIGNATURE OF NOTARY PUBLIC

DULCE MARINA WASHBURN  
Notary Public, State of New York  
No. 04WAS052549  
Qualified in Westchester County  
Commission Expires Dec. 18, 2016  
2-11





WESTCHESTER COUNTY  
TIMOTHY C. IDONI  
Westchester County Clerk

Bring or mail to

WESTCHESTER COUNTY CLERK  
NATURALIZATION/PASSEPORTS  
WESTCHESTER COUNTY

03/10/2009

15 PRN \$10.00 Case  
TOTAL : \$10.00

**PISTOL LICENSE RECERTIFICATION**

**ORIGINAL LICENSE #**

104519

**INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office with \$10.00 Certification Fee**

1. NAME: Anna L. MARUCCI-NANCE DATE OF BIRTH: REDACTED
2. ADDRESS: REDACTED
3. CITY/TOWN/VILLAGE: REDACTED STATE: NY ZIP: REDACTED
4. PHONE NUMBER HOME: REDACTED PHONE NUMBER WORK: REDACTED
5. LIST OF 5 WEAPON(S) ON OPPOSITE SIDE IS COMPLETE AND ACCURATE

Anna L. Marucci-Nance  
License Holder's Signature

Sworn to before me this 10<sup>TH</sup> day of MARCH, 2009

MARY FERENCI  
Notary Public, State of New York  
No. 04FE6126306  
Qualified in Westchester County  
Commission Expires May 2, 2009

Mary Ferenci  
Notary Public

**FOR OFFICE USE ONLY**

RECERTIFICATION LICENSE	APPROVED <input checked="" type="checkbox"/> NOT APPROVED <input type="checkbox"/>	DATE	COUNTY JUDGE
RECERTIFICATION DATE	8-15-14	4/30/09	<u>[Signature]</u>

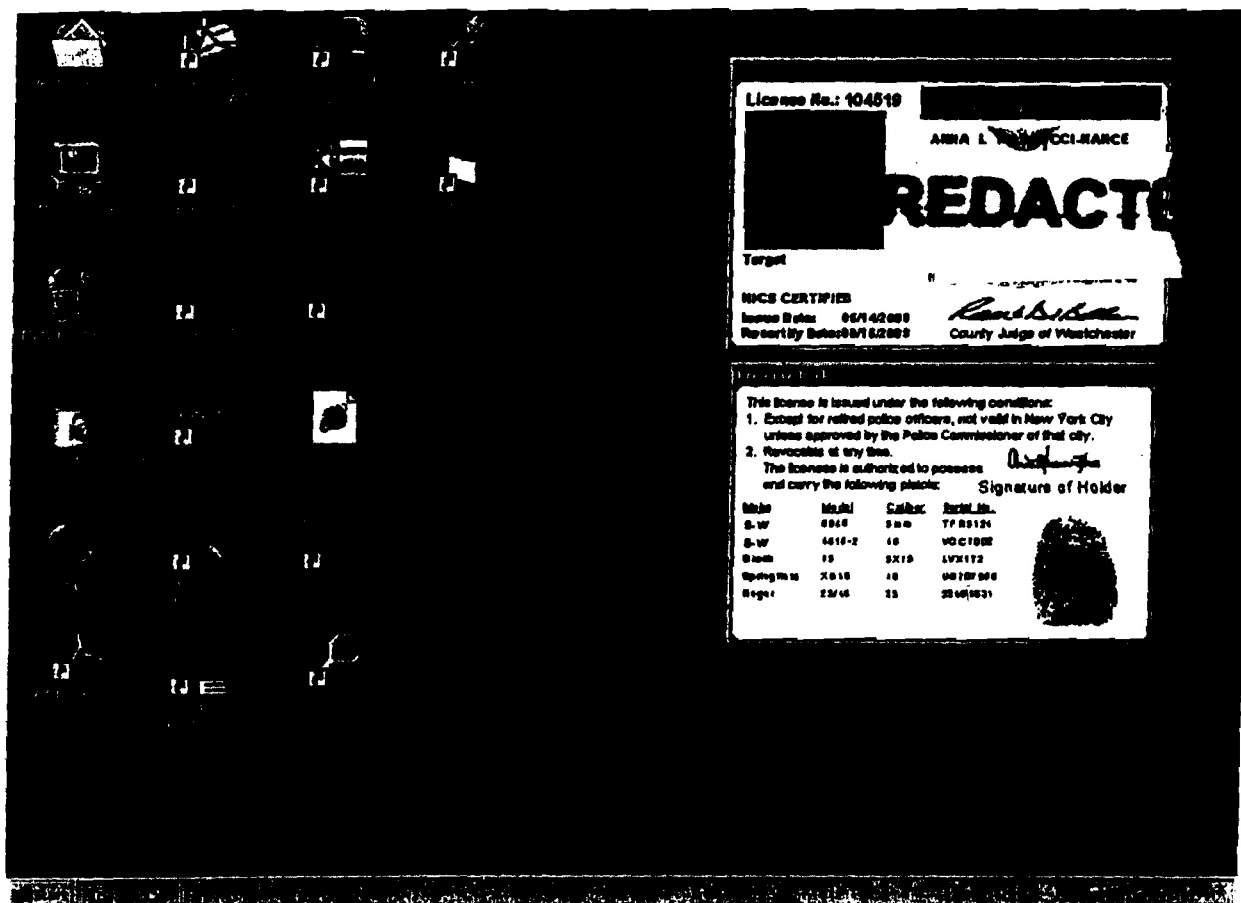
Revised: 1/19/2007

HON. RORY J. BELLANTONI  
ACTING JUSTICE SUPREME COURT

6. THE FOLLOWING WEAPON(S) ARE IN MY POSSESSION: (ATTACH ADDITIONAL SHEETS AS NECESSARY):

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
S-W	AUTO	6946	9MM	TFR9124
S-W	AUTO	4516-2	45	VCC7002
GLOCK	AUTO	19	9X19	LVX172
SPRINGFIELD	AUTO	XD 45	45	US707965
ROGER	AUTO	22/45	22	22464831







NCIC SEARCH

REDACTED

NCIC SEARCH

REDACTED

D/O/B

NYSID#

**REDACTED**

WESTCHESTER COUNTY

TIMOTHY C. IDONI

County Clerk

**APPLICATION FOR AMENDED OR DUPLICATION**

104519

ORIGINAL LICENSE #

INSTRUCTIONS: Complete form and submit in DUPLICATE to the Westchester County Clerk's Office and include \$3.00 for Amendment or \$5.00 for duplicate.

NAME: ANNA L. MARCUCCI-NANCE		<b>REDACTED</b>		<b>REDACTED</b>	
AGE: 42	HEIGHT: 5'5"	WEIGHT: 245	NOTE: Check box if purchase order is needed <input checked="" type="checkbox"/>		

**CIRCLE APPROPRIATE TRANSACTION (S)**

RESIDENCE CHANGE    DISPOSED    ACQUIRED    NAME CHANGE    RESTRICTION CHANGE    TRANSFER  
 DUPLICATE    SURRENDERED    SUSPENDED    REVOKED    DECEASED    OTHER

**I. TO AMEND LICENSE COMPLETE 1 THROUGH 7 WHERE APPROPRIATE**

1. NAME \_\_\_\_\_ PHONE #'s: HOME \_\_\_\_\_ WORK \_\_\_\_\_

2. NEW ADDRESS \_\_\_\_\_

3. THE FOLLOWING WEAPON (S) HAVE BEEN ACQUIRED FROM: NAME GANDER MOUNTAINADDRESS 100 NORTH GALLERIA DRIVE MIDDLETOWN NY 10941LICENSE #/DEALER LICENSE #/SHIELD # 12-14-00588 IF MORE THAN ONE SELLER, CHECK THISBOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #
GLOCK	AUTO	19	9X19	LVX 172
ARMED	AUTO	XB45	45	US707965
RUGER	AUTO	22/45	22	224-64831

4. THE FOLLOWING WEAPON (S) HAVE BEEN DISPOSED TO: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

LICENSE #/DEALER LICENSE #/SHIELD # \_\_\_\_\_ IF MORE THAN ONE BUYER, CHECK THIS

BOX ☐ AND FILL OUT BOX 7 ON THE BACK OF THIS FORM.

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

5. THE FOLLOWING WEAPON (S) HAVE BEEN: (CIRCLE ONE)    LOST    STOLEN    DESTROYED

LAW ENFORCEMENT AGENCY REPORTED TO: \_\_\_\_\_

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

6. AMEND LICENSE TO: (CIRCLE ONE)    ADD    DELETE    A RESTRICTION

IF AMENDMENT IS EMPLOYMENT RELATED, STATE THE FOLLOWING: (FOR A BUSINESS, EMPLOYMENT, OR FULL CARRY)

I AM REQUESTING THAT THE RESTRICTION ON MY LICENSE BE CHANGED TO: \_\_\_\_\_

NAME:	STREET:	APPX. 402	CITY/VILLAGE/TOWN:
-------	---------	-----------	--------------------

## 7. NAMES AND ADDRESS OF BUYERS AND/OR SELLERS (IDENTIFY IF BUYER OR SELLER)

NAME	ADDRESS	WEAPON SERIAL #

(A separate list of buyers/sellers must be submitted in triplicate on plain white paper, if there are more than 4 buyers/sellers.)

**II. TO REQUEST A DUPLICATE LICENSE, COMPLETE AFFIDAVIT**

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER ) S.S.  
CITY/VILLAGE OF )

Full Name \_\_\_\_\_

Present Occupation \_\_\_\_\_

Name and Address of Employer \_\_\_\_\_

Serial number of lost license \_\_\_\_\_ Date of Issuance \_\_\_\_\_

Brief statement of circumstances under which permit was lost:

Statement of weapon (s) now in applicant's possession, which are to be registered on license:

MAKE	REV/AUTO	MODEL	CALIBER	SERIAL #

(A separate list of guns must be submitted in triplicate on plain white paper, if applicant possesses more than 3 guns.)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Applicant's Signature

Notary Public

**III. TO BE COMPLETED BY ALL APPLICANTS**

Have you been arrested for any crime, been a patient at any mental institution, or had an order of protection issued against you since the last license was issued? (CIRCLE ONE) YES NO  
If yes, give details below:

**REDACTED**

Date and Place of Birth \_\_\_\_\_

Foreign Born Citizens Only - Naturalization Certificate Number \_\_\_\_\_

Date of Issuance \_\_\_\_\_ Court \_\_\_\_\_

I SWEAR THAT ALL THE ABOVE FACTS ARE TRUE TO THE BEST OF MY KNOWLEDGE

APPLICANT'S SIGNATURE

## FOR OFFICE USE ONLY

AMENDED LICENSE APPROVED ☒ NOT APPROVED ☐DUPLICATE LICENSE APPROVED ☐ NOT APPROVED ☐

EXPIRATION DATE \_\_\_\_\_

DATE

5/14/08

COUNTY JUDGE

Robert A. Bell

APPX. 403

HON. ROBERT M. DIBELLA  
ACTING SUPREME COURT JUSTICE

WESTCHESTER COUNTY CLERK  
LEONARD M. SPANO

IDENTIFICATION/PASSPORTS  
WESTCHESTER COUNTY

04/20/2005

11 PEN \$10.00check

TOTAL \$10.00

License No.: 104519

ANNA L. MCCANCE

**REDACTED**

Target

Height: 5'0" Weight: 245

NYS CERTIFIED

Issue Date: 04/19/2005

Recertify Date: 08/15/2009

County Judge of Westchester

This license is issued under the following conditions:

1. Except for retired police officers, not valid in New York City unless approved by the Police Commissioner of that city.
2. Revokable at any time. The licensee is authorized to possess and carry the following pistols:

Signature of Holder

Make	Model	Gauge	Serial No.
S-W	8048	9mm	TFR0124
S-W	4518-2	45	VCC7002

Start | ID badge - Information | 2:03 PM





Andrew J. Spano  
County Executive

Department of Public Safety  
Thomas Belfiore  
Commissioner/Sheriff

April 11, 2005

Honorable Justice  
Westchester County Court  
White Plains, NY 10601

Re: **REDACTED**

Dear Honorable Justice:

The above captioned individual has submitted an application to this department for a New York State Pistol Permit:

**TARGET SHOOTING**

A search of the files of the Division of Criminal Justice Services in Albany reveals no derogatory information.

A search of the files of the New York State Department of Mental Hygiene reveals no derogatory information.

Letters from each of the four character references attesting to the good moral character and reputation of the applicant are on file.

The applicant is a citizen of the United States by virtue of birth as evidenced by a copy of the applicant's birth certificate.

There are no means available to this Office to further verify statements made on the application.

Application is hereby forwarded with whatever action you deem appropriate.

Should you require any additional information regarding our investigation of this applicant, please contact the Pistol Permit Unit at (914) 995-2709.

Sincerely,

*Thomas Belfiore*  
Thomas Belfiore  
Commissioner/Sheriff

TB/db/cf

attachments  
A New York State Accredited  
Law Enforcement Agency

Saw Mill River Parkway  
Hawthorne, New York 10532

Telephone: (914) 864-7700 Website: westchestergov.com

WESTCHESTER COUNTY CLERK  
LEONARD N. SPANO

NATURALIZATION/PASSPORTS  
WESTCHESTER COUNTY

05/14/2004

35 LAP \$10.00Cash

TOTAL : \$10.00  
=====





Andrew J. Spano  
County Executive

Department of Public Safety

Thomas Belfiore  
Commissioner/Sheriff

DATE: 3/9/11

OFFICE USE ONLY

CASE #: 05-267

DET: DB

State of New York  
Department of Mental Hygiene  
44 Holland Avenue  
Albany, New York 12229

Re: Applicant for a New York State Pistol License

Dear Sir:

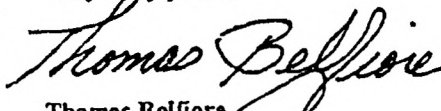
It is hereby requested that you check your records against the name of the following, in compliance with the New York State Penal Law, Subdivision 4, Section 400.00:

PLEASE FILL IN INFORMATION:

Name: Anna L. Marcucci - Nance  
Aliases and/or Maiden Name: Anna L. Marcucci  
Address: **REDACTED REDACTED**  
Date of Birth: **REDACTED**  
Place of Birth: **REDACTED**  
Sex: Female

Your cooperation is greatly appreciated.

Very truly yours,

  
Thomas Belfiore  
Commissioner/Sheriff

NO OFFICIAL RECORD OF HOSPITALIZATION  
FOR MENTAL ILLNESS SINCE 1965. IF SEARCH  
PRIOR TO 1965 IS REQUIRED, PLEASE SUBMIT  
WRITTEN REQUEST.



A New York State Accredited  
Law Enforcement Agency

Saw Mill River Parkway  
Hawthorne, New York 10532

Telephone: (914) 864-7100 Web: [www.westchestergov.com](http://www.westchestergov.com)

APPX 406

Westchester  
gov.comMemorandum  
Department of Public SafetyPISTOL LICENSE APPLICATION QUESTIONNAIREANSWER ALL QUESTIONS FULLY: ATTACH SEPARATE SHEETS IF NECESSARYLAST NAME: REDACTED FIRST: REDACTED M.I. REDACTEDADDRESS: REDACTEDALIAS: REDACTED SEX: REDACTED RACE: REDACTED HAIR: REDACTED EYES: REDACTED WEIGHT: REDACTEDHEIGHT: 5'5" D.O.B.: REDACTED PLACE OF BIRTH: REDACTED1) ☒ CITIZEN BY BIRTH  
NATURALIZED CITIZEN -- NATURALIZATION NUMBER  
RESIDENT ALIEN ALIEN REGISTRATION NO.2) MARITAL STATUS: IF FEMALE, MAIDEN NAME  
SINGLE  
☒ MARRIED DIVORCED NUMBER OF CHILDREN AT HOME

3) LIST ALL PLACES OF RESIDENCE FOR THE LAST FIVE YEARS.

REDACTED REDACTED  
REDACTED

3a) PHONE NUMBER (H):

4) LIST ALL PLACES OF EMPLOYMENT FOR THE PAST FIVE YEARS:

NYC DA - 130 Livingston St Brooklyn NY

5) LIST ALL PISTOLS YOU WILL BE REGISTERING:

make - Smith & Wesson - model 6946 - serial # TFR 9124 - CAL 9MM  
make - Smith & Wesson - model 4516-2 - serial VCC 7002 - CAL 45ACP

6) HOW AND WHERE WILL PISTOLS BE SAFEGUARDED WHEN NOT IN USE:

REDACTED REDACTED

7) GIVE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PERSON WHO WILL SAFEGUARD THE PISTOL(S) IN THE EVENT OF YOUR DEATH OR DISABILITY.

Johanne Nance  
714-45REDACTEDREDACTED

8) LIST THE NEAREST RELATIVES NOT LIVING WITH YOU:

1) NAME Johanne Nance PHONE NO. REDACTED  
ADDRESS REDACTED2) NAME REDACTED PHONE NO. REDACTED  
ADDRESS REDACTED

- OVER -



DEPARTMENT OF PUBLIC SAFETY  
WESTCHESTER COUNTY POLICE

PISTOL LICENSE UNIT

PISTOL LICENSE APPLICATION SUPPLEMENT

**INSTRUCTIONS:** Read each question carefully and answer each question in black ink. Place a check mark in the box which represents your response. You MUST have this form NOTARIZED.

- 1) Do you have, or have you ever had, an Order of Protection issued against you?  
YES ☐ NO ☒
- 2) Do you have, or have you ever had, an Order of Protection issued by you against a member of your household or any family member?  
YES ☐ NO ☒
- 3) Do you have, or have you ever had, an Order of Protection issued by you against a person other than a member of your household or family?  
YES ☐ NO ☒

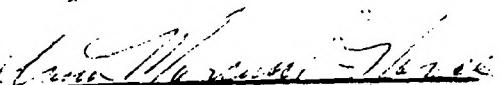
\* **Note:** If you have checked YES to question one (1), you **MUST** attach a signed and notarized letter explaining your answer and include the following information:

- A. The court of issuance
- B. The date of issuance
- C. Complainant's name
- D. Complainant's address
- E. Complainant's telephone number
- F. Complainant's relationship to you
- G. Reason for issuance of Order of Protection

\* **Note:** If you checked YES to either question two (2) or question three (3), you **MUST** attach a signed and notarized letter explaining your answer and include the following information:

- A. The court of issuance
- B. The date of issuance
- C. Respondent's name
- D. Respondent's address
- E. Respondent's telephone number
- F. Respondent's relationship to you
- G. Reason for issuance of Order of Protection

I, the undersigned applicant, being duly sworn, deposes and says under penalty of perjury that all of the aforementioned answers are true to the best of my knowledge.

  
Signature of Applicant

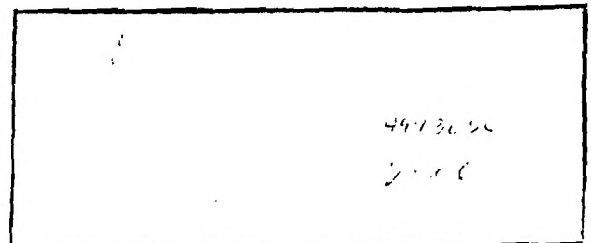
STATE OF NEW YORK

COUNTY OF WESTCHESTER

Sworn to before me this 19 day  
of FEB 2005

  
Notary Public, State of New York

APPX. 408



Affix Seal Above

WALTON A. WALLACE, JR.

**REDACTED**  
**REDACTED**

NRA CERT. # 18539852

To Whom It Might Concern,

This Letter is to Certify that the below named Student has successfully completed the NRA BASIC PISTOL SAFETY COURSE as follows:

- Lesson I: Pistol Knowledge and Safe Gun Handling.
- Lesson II: Ammunition Knowledge and The Fundamentals of Pistol Shooting.
- Lesson IV: Two Handed and One Handed Standing Shooting Positions.
- Lesson V: Pistol Sports Activities.

In Addition: Care, Cleaning and the Proper Storage of Firearms, specifically pistols, have been explained.

Lesson III: Deals with the Actual Shooting of the Pistol.

Since New York State Law does not permit a student to handle a Firearm until their license has been approved a follow up lesson is provided. When the Student has obtained His / Her Permit, they will return for Proper Instruction on the Firing Range.

STUDENT NAME: ANNA MARCUCCI - MANCE

DATE OF COURSE: 4/12/04 C/25/04

COURSE REFERENCE MATERIAL:

THE BASICS OF PISTOL SHOOTING

Published by The NRA

WALTON A. WALLACE JR.

Walton A. Wallace Jr.



THE NATIONAL RIFLE  
ASSOCIATION OF AMERICA

Awards this certificate to

ANNA MAR CULLI-NANCE

for successful completion of the

NRA  
BASIC PISTOL  
COURSE

Blw Mt. Sportsmen Center

Issued at

25 April 2014

Date

Walter A. Wallace Jr.

NRA Certified Instructor

NRA # 185 39812

*[Signature]*  
NRA Secretary



INSTR ONS: Print or type in black ink or

NYSID NUMBER **REDACTED** 8/00  
 LICENSE NUMBER 104519  
 DATE OF ISSUE 07/19/05  
 COUNTY OF ISSUE Westchester  
 STATE OF NEW YORK  
 PISTOL/REVOLVER LICENSE APPLICATION  
 EXPIRATION DATE 07/19/10

LAST NAME MARCUCCI-NANCE FIRST NAME ANNA MI RED  
 HEIGHT 5'5" WEIGHT 145 EYES BR HAIR BLK RACE BLK  
 EMPLOYED BY NYCTA NATURE OF BUSINESS TRANSPORTATION PRESENT OCCUPATION TRAIN OPERATOR CITIZEN OF U.S.A. ☒ YES ☐ NO  
 BUSINESS ADDRESS 130 LIVINGSTON ST. BROOKLYN NY 11201

I HEREBY APPLY FOR A PISTOL/REVOLVER LICENSE TO: (Check one only) ☒ CARRY CONCEALED ☐ \* POSSESS ON PREMISES  
☐ \* POSSESS/CARRY DURING EMPLOYMENT (\* Premise address or place of employment must be provided)

STREET ADDRESS OR OTHER LOCATION CITY, VILLAGE, TOWN ZIP CODE  
 A LICENSE IS REQUIRED FOR THE FOLLOWING REASON: TARGET

GIVE FOUR CHARACTER REFERENCES WHO BY THEIR SIGNATURE ATTEST TO YOUR GOOD MORAL CHARACTER

LAST, FIRST, MI	STREET ADDRESS	CITY, VILLAGE, TOWN	SIGNATURE
<u>Hargrove Shirley</u>	<u>REDACTED</u>	<u>REDACTED</u>	<u>Shirley Hargrove</u>
<u>Hargrove Richard</u>	<u>REDACTED</u>	<u>REDACTED</u>	<u>Richard Hargrove</u>
<u>Hicks Edward</u>	<u>REDACTED</u>	<u>REDACTED</u>	<u>Edward B Hicks</u>
<u>Sarah Munnal</u>	<u>REDACTED</u>	<u>REDACTED</u>	<u>Sarah Munnal</u>

HAVE YOU EVER BEEN ARRESTED OR INDICTED ANYWHERE FOR ANY OFFENSE, INCLUDING DWI (EXCEPT TRAFFIC INFRACTIONS)?  
☐ YES ☒ NO IF YES, FURNISH THE FOLLOWING INFORMATION:

DATE	POLICE AGENCY	CHARGE	DISPOSITION - COURT AND DATE

HAVE YOU EVER BEEN TERMINATED/DISCHARGED FROM ANY EMPLOYMENT OR THE ARMED FORCES FOR CAUSE? ☐ YES ☒ NO  
 HAVE YOU EVER UNDERGONE TREATMENT FOR ALCOHOLISM OR DRUG USE? ☐ YES ☒ NO  
 HAVE YOU EVER SUFFERED ANY MENTAL ILLNESS, OR BEEN CONFINED TO ANY HOSPITAL, PUBLIC OR PRIVATE INSTITUTION, FOR MENTAL ILLNESS? ☐ YES ☒ NO  
 HAVE YOU EVER HAD A PISTOL LICENSE, DEALER'S LICENSE, GUNSMITH LICENSE, OR ANY APPLICATION FOR SUCH A LICENSE DISAPPROVED, OR HAD SUCH A LICENSE REVOKED OR CANCELLED? ☐ YES ☒ NO  
 DO YOU HAVE ANY PHYSICAL CONDITION WHICH COULD INTERFERE WITH THE SAFE AND PROPER USE OF A HANDGUN? ☐ YES ☒ NO  
 HAVE YOU EVER BEEN CHARGED, PETITIONED AGAINST, A RESPONDENT, OR OTHERWISE BEEN A SUBJECT OF A PROCEEDING IN FAMILY COURT? ☐ YES ☒ NO  
 IF ANSWER TO ANY QUESTION IS YES, EXPLAIN HERE:

ANY OMISSION OF FACT OR ANY FALSE STATEMENT WILL BE SUFFICIENT CAUSE TO DENY THIS APPLICATION AND CONSTITUTES A CRIME PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH.

AM AWARE THAT THE FOLLOWING CONDITIONS AFFECT ANY LICENSE WHICH MAY BE ISSUED TO ME:

NO LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS VALID IN THE CITY OF NEW YORK.  
 ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION WILL BE VALID ONLY FOR A PISTOL OR REVOLVER SPECIFICALLY DESCRIBED IN THE LICENSE PROPERLY ISSUED BY THE LICENSING OFFICER.  
 IF I PERMANENTLY CHANGE MY ADDRESS, NOTICE OF SUCH CHANGE AND MY NEW ADDRESS MUST BE FORWARDED TO THE SUPERINTENDENT OF THE STATE POLICE AND IN NASSAU COUNTY AND SUFFOLK COUNTY, TO THE LICENSING OFFICER OF THAT COUNTY, WITHIN 10 DAYS OF SUCH CHANGE.  
 ANY LICENSE ISSUED AS A RESULT OF THIS APPLICATION IS SUBJECT TO REVOCATION AT ANY TIME BY THE LICENSING OFFICER OR ANY JUDGE OR JUSTICE OF A COURT OF RECORD.

4973656

2006



JURAT:

SIGNED AND SWORN TO BEFORE ME

THIS 19 DAY OF FEB, 20 05

AT WESTCHESTER COUNTY, NEW YORK

Richard Hargrove  
 SIGNATURE OF OFFICER ADMINISTERING OATH

TITLE OF OFFICER

THIS FORM APPROVED BY SUPERINTENDENT OF STATE POLICE AS REQUIRED BY PENAL LAW SECTION 400.00, SUBD. 3.

APPX. 411 APPLICATION NOT VALID UNLESS SWORN



1. RIGHT THUMB	2. RIGHT FOREFINGER	3. RIGHT MIDDLE FINGER	4. RIGHT RING FINGER	5. RIGHT LITTLE FINGER
----------------	---------------------	------------------------	----------------------	------------------------

**REDACTED****REDACTED****REDACTED****REDACTED****REDACTED****REDACTED**

PLAIN IMPRESSIONS TAKEN SIMULTANEOUSLY

LEFT FOUR FINGERS

RIGHT FOUR FINGERS

THUMBS TAKEN TOGETHER

**REDACTED****REDACTED****REDACTED**IMPRESSIONS  
TAKEN BY:

NAME

*Det. Byrne*

RANK

*Det. A*

SHIELD

*34*

DATE

*3/9/14*

APPLICANT'S SIGNATURE AND ADDRESS:

*Anna Marcecci-Davis***REDACTED**

INVESTIGATION REPORT

ALL INFORMATION PROVIDED BY THIS APPLICANT HAS BEEN VERIFIED.

NAME

*Det. Byrne*

RANK

*Det. A*

ORGANIZATION

*WCPD*

RECOMMEND APPROVAL - DISAPPROVAL: (STRIKE OUT ONE)

SIGNATURE OF INVESTIGATING OFFICER

THIS APPLICATION IS APPROVED - DISAPPROVED (STRIKE OUT ONE)

THE FOLLOWING RESTRICTION(S) IS (ARE) APPLICABLE TO THIS LICENSE:

*T/S*

TITLE AND SIGNATURE OF LICENSING OFFICER

IF LICENSING OFFICER AUTHORIZES THE POSSESSION OF A PISTOL OR REVOLVER AT THE TIME OF ISSUE OF ORIGINAL LICENSE, FURNISH THE FOLLOWING INFORMATION:

MANUFACTURER	PISTOL OR REVOLVER	CALIBER	SERIAL NUMBER	MODEL	PROPERTY OF
Smith & Wesson	Pistol	9mm	TFR 9124	6946	ALL counties sporting supply
Smith & Wesson	Pistol	45ACP	VCC 7002	4516-2	ALL counties sporting supply
					677 Lakeside Ave. 140209
					NY State LLC
					104245-F

DUPLICATE OF THIS APPLICATION MUST BE FILED WITH THE SUPERINTENDENT OF STATE POLICE WITHIN 10 DAYS OF ISSUANCE AS REQUIRED BY PENAL LAW SECTION 400.00 SUBD. 5

APPX. 412

NYS OFFICE OF THE ATTORNEY GENERAL  
WESTCHESTER REGIONAL OFFICE

FEB 06 2009

RECEIVED BY

*Don M. Cullen*  
ASSISTANT ATTORNEY GENERAL

SUPREME COURT OF THE STATE OF NEW YORK      Docket No.  
APPELLATE DIVISION: SECOND DEPARTMENT

In the Matter of ALAN KACHALSKY,

**NOTICE OF PETITION**

Petitioner,

-against-

SUSAN CACACE, as Justice of the County Court,

Respondent.

**PLEASE TAKE NOTICE** that upon the petition of Alan Kachalsky, verified on the 4<sup>th</sup> day of February, 2009, an application will be made to this Court to be held at the Court House, 45 Monroe Place, Brooklyn, NY 11201, on the 20th day of March, 2009, at 9:30 o'clock in the forenoon or as soon thereafter as counsel can be heard for a judgment granting the relief demanded in the petition and that a verified answer and supporting affidavits, if any, must be served at least five days before such time.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Section 7804 of the Civil Practice Law and Rules you are directed to file with the Clerk of the Court your answer, and answering affidavits, etc. together with a certified transcript of the record of the proceeding, together with the entire official file containing the records of the petitioner herein held by the Respondent and referred to in said hearing as being in the record as official records kept by the Respondent herein.

Dated: Rye Brook, New York  
February 4, 2009

*Alan Kachalsky*

ALAN KACHALSKY, ESQ.

Attorney for Petitioner, Howard Silberman  
800 Westchester Avenue, Suite S-608  
Rye Brook, NY 10573  
(914) 220-5324  
e-mail: catchsky@earthlink.net



To:

Pistol Permit Department  
County of Westchester  
110 Dr. Martin Luther King Jr.  
Blvd., Rm. 340A  
White Plains, New York 10601  
(914) 995-2709

Office of the Attorney General  
Westchester Regional Office  
101 E. Post Road  
White Plains, NY 10601-5008  
(914) 422-8755

HON. SUSAN CACACE  
County Court Judge  
111 Dr. Martin Luther King Jr. Blvd.  
White Plains, New York 10601  
(914) 824-5401

Charlene M. Indelicato  
County Attorney, County of Westchester  
148 Martine Ave., Rm 600  
White Plains, New York 10601  
(914) 995-5858

SUPREME COURT OF THE STATE OF NEW YORK    **Index No.**  
APPELLATE DIVISION: SECOND DEPARTMENT  
-----

In the Matter of ALAN KACHALSKY,

**VERIFIED PETITION**

Petitioner,

-against-

SUSAN CACACE, as Justice of the County Court,

Respondent.  
-----

The petition of ALAN KACHALSKY, respectfully shows:

1. That petitioner is a resident of the County of Westchester, State of New York, to wit: 47C Rye Colony, Peck Avenue, Rye, New York.
2. That Petitioner applied for a pistol permit pursuant to Penal Law Section 400.00.
3. A Decision and Order, of the Hon. Susan Cacace, Westchester County Court Judge (in its capacity as handgun licensing officer for the County of Westchester, pursuant to Penal Law §265.00(10)), was filed and entered on October 8, 2008. The Order denied Petitioner's application for an unrestricted full carry pistol permit. Annexed hereto as Exhibit "1" is a copy of the Decision and Order.
4. That Petitioner, by the order of the Hon. Susan Cacace, has been deprived of a valuable property right and a valuable Constitutional Right and therefore violated N.Y. C.P.L.R. § 7803(3) in making its determination to deny Petitioner an unrestricted full carry pistol permit, and therefore denying Petitioner his right, pursuant to the Second Amendment of the Constitution of the United States "to keep and bear arms."

5. That the determination under review was made in violation of lawful procedure, was affected by an error of law and/or was arbitrary and capricious or an abuse of discretion, including abuse of discretion.

**Penal Law Section 400.00(2)(f) Places Unconstitutional Burden on Petitioner**

6. The Decision denying petitioner's concealed pistol permit states that "In order for the issuance of a license to "have and carry concealed without regard to employment or place of possession by any person, " the Court must find "proper cause exists for the issuance thereof." Penal Law §400.00(2)(f).
7. The Second Amendment provides that: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."
8. Imposing a requirement on Petitioner to demonstrate proper cause exists for the issuance of a concealed pistol permit is an infringement of petitioner's right to keep **and bear arms**; thus §400.00(2)(f) of the Penal Law violates the Second Amendment of the Constitution of the United States.

**District of Columbia v. Heller**

9. In *District of Columbia v. Heller*, 128 S.Ct. 2783, 171 L.Ed.2d 637, 76 USLW 4631, the Supreme Court of the United States held that the District of Columbia statute which banned handgun possession in the home violated the Second Amendment.
10. In doing so, the Court further held that (1) the Second Amendment conferred an **individual** right to keep **and bear arms**, and (2) statutes banning handgun possession in the home violated the Second Amendment.
11. The Court in *Heller* further analyzed the meaning of the term "bear arms," as used in the Second Amendment, and stated, in relevant part:

At the time of the founding, as now, to “bear” meant to “carry.” See Johnson 161; Webster; T. Sheridan, *A Complete Dictionary of the English Language* (1796); 2 *Oxford English Dictionary* 20 (2d ed.1989) (hereinafter *Oxford*). When used with “arms,” however, the term has a meaning that refers to carrying for a particular purpose-confrontation. In *Muscarello v. United States*, 524 U.S. 125, 118 S.Ct. 1911, 141 L.Ed.2d 111 (1998), in the course of analyzing the meaning of “carries a firearm” in a federal criminal statute, Justice Ginsburg wrote that “[s]urely a most familiar meaning is, as the Constitution’s Second Amendment ... indicate[s]: **‘wear, bear, or carry ... upon the person or in the clothing or in a pocket, for the purpose ... of being armed and ready for offensive or defensive action in a case of conflict with another person.’**” *Id.*, at 143, 118 S.Ct. 1911 (dissenting opinion) (quoting *Black’s Law Dictionary* 214 (6th ed.1998)). We think that Justice GINSBURG accurately captured the natural meaning of “bear arms.” 128 S.Ct. @ 2793.

12. Further, as the Court stated in *Heller*,

“But the enshrinement of constitutional rights necessarily takes certain policy choices off the table. These include the absolute prohibition of handguns held and used for self-defense in the home. Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct.” 128 S.Ct. @ 2822.

13. Petitioner contends that Penal Law §400.00(2)(f)’s requirement that applicants must demonstrate that “proper cause exists for the issuance thereof” is unconstitutional in that it stands the meaning of the word ‘right’ on its head. A ‘right’ is not something one must demonstrate a need for! Is one required to demonstrate a need for one’s Right to Free Speech prior to exercising this right? Is one required to apply for a license to exercise their right to free speech?
14. Furthermore, to require one to demonstrate that proper cause exists for the issuance of a concealed pistol permit is antithetical to the purpose of carrying a concealed weapon. One carries a concealed weapon either for one of two reasons: defensive purposes or offensive purposes.

#### **Defects in Procedure & Application**



15. The application provided to me by the Westchester County Police Pistol Licensing Unit included a form entitled 'Attachment: Full Carry.' The form said: 'List all factors which you believe to be relevant to your application and which establish proper cause for the issuance of a firearm license for the purpose of Full Carry.'

16. I responded to this question as follows (see exhibit "2," annexed hereto).

The factors which establish proper cause for the issuance to myself of a Full Carry pistol Permit are: 1) The Second Amendment of the Constitution grants citizens the right to bear arms. As a citizen, I am therefore entitled to exercise my Constitutional right to bear arms. I believe that Constitutional right entitles me to the permit without further the need to establish "proper cause."

If the issuing agency for some reason requires more than this, then I will cite the fact that we live in a world sporadic random violence might at any moment place one in a position where one needs to defend oneself or possibly others, e.g. random shootings in universities (Virginia Tech), post offices, airline check-in counters, malls, road rage, as well as the run-of-the-mill street muggings and robberies. While the odds of finding oneself in a Virginia Tech type situation are remote, one must reflect that had there been even one armed person, the death toll might have been considerably less than 31 dead. While one never knows what one might do in such situations, it is my belief that it is better to have the option to defend oneself (and others) than not to have the option. As a pilot and a skydiver, I have been trained to handle emergencies, and I have actually handled several emergencies, so it is unlikely that I will respond in a dangerous manner.

17. What more can one say in response to an absurd question asking to 'List all factors which you believe to be relevant to your application and which establish proper cause for the issuance of a firearm license for the purpose of Full Carry.' Is one required to actually have been threatened in order to be entitled to exercise one's Constitutional Right to "keep and bear arms?" That is certainly an absurd requirement as well as an absurd question. Certainly, the Westchester County Police know that except in rare instances, such as domestic violence, or perhaps loan shark 'victims,' a potential 'victim' does not get a threat before being beaten, murdered or robbed. I would guess that most homicides don't come with a one year (which seems to be about the waiting time for a law-abiding citizen with no

criminal record, such as petitioner, to be rejected after applying for a Full Carry permit)  
'warning.'

18. The requirement set forth in Section 400.00(2)(f) of the Penal Law, to demonstrate that proper cause exists for the issuance of a license 'to have and carry concealed, without regard to employment or place of possession thereof', (hereinafter referred to as a "Carry Permit") places an improper and unconstitutional burden on petitioner as a prerequisite to petitioner's exercise of his Second Amendment right to keep and bear arms.
19. Furthermore, the Decision denying my application for a Carry Permit (exhibit "1,") also states that "He has not stated any facts which would demonstrate a need for self protection distinguishable from that of the general public."
20. The only pertinent question asked on the application is 'list all factors which you believe to be relevant to your application and which establish proper cause for the issuance of a firearm license for the purpose of Full Carry.' Nowhere does the application mention that the applicant is required to state "facts which would demonstrate a need for self protection distinguishable from that of the general public," such as to put the applicant on notice that this is a requirement.
21. One is not required to state any facts to demonstrate a 'need' to exercise one's Constitutional (and god-given) rights! Would the Court uphold the imposition of such a requirement in order to exercise one's right to attend religious services (freedom of religion) or to exercise one's right to post comments on a 'blog' (right to free speech)? Where does the Westchester County Police derive the authority to require an applicant to "demonstrate a need for self protection distinguishable from that of the general public?"
22. And, if there is such a requirement to "demonstrate a need for self protection distinguishable from that of the general public," it is respectfully submitted that the fundamental principles

of due process as well as ordinary fairness and common sense require that the applicant be placed on notice of such requirement in the application, rather than ambushing an applicant with the 'failure' to distinguish his need for self-protection from that of the general public.

**The Issuing Agency failed to provide Petitioner with the specific reasons for the denial of the permit, or an opportunity to respond to the objections to his application.**

23. The Decision also states that "The Westchester County Department of Public Safety has forwarded a recommendation that his application be denied."
24. Petitioner was never given the specific reasons for the Department of Public Safety's recommendation that the applicant be denied, nor was Petitioner given an opportunity to respond to the objections to his application, as required by *Babu v. Lange*, 164 A.D.2d 910, 559 N.Y.S.2d 747 (N.Y.A.D. 2 Dept., 1990).
25. In *Savitch v. Lange* 114 A.D.2d 372, 493 N.Y.S.2d 889, the 2<sup>nd</sup> Dept. held that it was improper to give as sole reason for denial of pistol license the fact that police commissioner recommended that application for pistol license be disapproved.
26. Penal Law § 400.00 [4- a] also requires that the licensing officer must, if she denies the petitioner be given the **specific** reasons for the denial of the pistol license, as well as an opportunity to respond to the objections to her application.
27. Penal Law § 400.00 [4- a] also requires that "the licensing officer shall either deny the application **for reasons specifically and concisely stated** in writing or grant the application and issue the license applied for.
28. To pretend or to hold that the failure of the applicant to state "any facts which would demonstrate a need for self protection distinguishable from that of the general public" constitutes the requisite specific reasons required by § 400.00 [4- a] of the Penal Law is illogical and disingenuous. It is the equivalent of "Heads I win, tails you lose." If licensing officer cannot find a specific reason to deny the application, then they will deny the



application because the applicant failed to provide a specific reason why he required it.

Heads I win, tails you lose!

29. Nor does the( undoubtedly usual and customary) totally unsupported and unspecific boilerplate recommendation of the Westchester County Department of Public Safety that the application be denied constitute a specific reason. I have no doubt that the Westchester County Department of Public Safety recommends that 95% of applications be denied, with the same utter lack of specificity, except in those cases where they are actually able to come up with a specific reason, (see paragraph 32).
30. It is the epitomy of arbitrariness and capriciousness to justify denying a permit based on recommendations of the The Westchester County Department of Public Safety which fail to specify any reason at all. This situation creates the danger of the perception that the granting of Carry Permits is based on membership in the ‘privileged class;’ members of ‘the club,’ so to speak; which again, is further evidence that to allow applicants to be denied without any specific reason being stated is of itself arbitrary and capricious.
31. It is respectfully suggested that the ‘specific reasons for the denial’ should mean precisely that - **specific** reasons - not the **absence** of specific reasons, or the failure to state “any facts which would demonstrate a need for self protection distinguishable from that of the general public.”, which is what the instant denial is clearly based on. Clearly the ‘specific reasons contemplated by § 400.00 [4- a] are those found in cases cited in paragraph 32.
32. Numerous cases specify the reasons for denying Full Carry Permits. These reasons nkud:
  - a. Lack of “the requisite maturity, good judgment and temperament to carry a pistol, as evidenced by the applicant having been arrested and charged with stalking in the fourth degree in connection with his repeated unwelcomed interactions with his ex-girlfriend and her family *Dorsey v. Teresi*, 26 A.D.3d 635, 809 N.Y.S.2d 617, 2006 N.Y. (3<sup>rd</sup> Dept.,2006);



- b. Prior arrests based upon having misrepresented his identity to police officer when stopped for speeding, as well as failing to disclose arrest history on application, and subsequent misrepresentation to the Court of circumstances leading to, and reasons for his nondisclosure. *Westfall v. Lange*, 175 A.D.2d 290, 572 N.Y.S.2d 739 ( 2<sup>nd</sup> Dept.,1991).
  - c. Conviction of unlawful entry and conviction for driving while impaired and driving while intoxicated. *Schnell v. Spano*, 120 A.D.2d 669, 502 N.Y.S.2d 263, (2nd Dept.,1986);
  - d. Six arrests where Petitioner submitted uncontested explanations regarding the circumstances of the arrests. *Servedio v. Bratton*, 268 A.D.2d 356, 702 N.Y.S.2d 264 (1st Dept.,2000).
33. When, as in the case at bar, the licensing officer is unable to specify a reason for denying the license, it is respectfully contended that it constitutes an abuse of discretion, as well as being arbitrary and capricious, to uphold the denial based upon nothing more than the reasons set forth in the decision (exhibit "1,"), to wit: "that "The Westchester County Department of Public Safety has forwarded a recommendation that his application be denied," and "He has not stated any facts which would demonstrate a need for self protection distinguishable from that of the general public."
34. In *Leone v. Silverman*, 153 A.D.2d 862, 545 N.Y.S.2d 582 ( 2<sup>nd</sup> Dept.,1989), the Court held that it was an abuse of discretion to revoke the applicant's pistol license where the information before the court was the same as that before the court which originally issued the license, there was no indication that licensee had not made full disclosure on his original application, and there was no evidence of an act after the grant of the license demonstrating unfitness to carry a pistol.
35. The only relevant distinction between the case at bar, and *Leone*, is that the case at bar involves an initial application, whereas *Leone* involved an application to modify a pistol license. In the case at bar, as well as in *Leone*, there was no indication of failure to make full disclosure, nor was there any evidence of an act demonstrating unfitness to carry a pistol.

36. Under these circumstances, it would clearly be arbitrary and capricious to grant the modification of Leone's application while denying Petitioner's application when there is no logical distinction other than that one is an initial application and the other is a modification application. Neither Leone nor petitioner failed to make full disclosure, nor was there any evidence of an act demonstrating unfitness to carry a pistol, however, Leone is granted a license to exercise his Second Amendment Right to keep and bear arms, whereas petitioner is denied this right. Action taken which has no foundation in fact or reason is, by definition, arbitrary and capricious. *Miller v. Valley Forge Village*, 43 N.Y.2d 626, 374 N.E.2d 118, 403 N.Y.S.2d 207.

**WHEREFORE**, petitioner respectfully asks for an Order:

- a. setting aside, annulling and voiding the Order of the Hon. Susan Cacace, County Court Judge (in her capacity as handgun licensing officer for the County of Westchester) which denied petitioner's application for an unrestricted full carry pistol permit (Exhibit "1"), and;
- b. enjoining, on Second Amendment grounds, the State of New York from enforcing the requirement set forth in Penal Law §400.00(2)(f). that the Court must find "proper cause exists for the issuance of a full-carry permit, and;
- c. granting Petitioner a license as set forth in §400.00(2)(f) of the Penal Law" to "have and carry concealed, without regard to employment or place of possession (referred to herein, as in the Decision and Order of the Hon. Susan Cacace, as an "unrestricted full carry pistol permit")

Dated: Rye Brook, New York  
February 4, 2009



ALAN KACHALSKY, ESQ.  
*Attorney for Petitioner*  
800 Westchester Avenue, Suite 608  
Rye Brook, New York 10573  
(914) 696-5555

TO:

Pistol Permit Department  
County of Westchester  
110 Dr. Martin Luther King Jr. Blvd. White Plains, New York 10601

(914) 995-2709

HON. SUSAN CACACE  
County Court Judge  
111 Dr. Martin Luther King Jr. Blvd.  
White Plains, New York 10601  
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Office of the Attorney General  
Westchester Regional Office  
101 E. Post Road  
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(914) 422-8755

Charlene M. Indelicato  
County Attorney, County of Westchester  
148 Martine Avenue  
White Plains, New York 10601  
(914) 995-5858

VERIFICATION

STATE OF NEW YORK        )  
  :SS:  
COUNTY OF WESTCHESTER )

ALAN KACHALSKY, being duly sworn, says that he is the Petitioner in the above-named proceeding and that the foregoing petition is true to his own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters he believes it to be true.

  
ALAN KACHALSKY, Petitioner

Sworn to before me this  
5<sup>th</sup> day of February, 2009

  
Notary Public

**DONNA M. CAMPITO  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01006145667  
QUALIFIED IN WESTCHESTER COUNTY  
COMMISSION EXPIRES MAY 8, 2010**



SUPREME COURT OF THE CITY OF NEW YORK  
APPELLATE DIVISION : SECOND DEPARTMENT

---

In the Matter of ALAN KACHALSKY,

Petitioner,

Docket No.

-against-

SUSAN CACACE, as Justice of the County Court

Respondent.

---

**ARTICLE 78 PETITION (RE: DENIAL OF FULL-CARRY PISTOL PERMIT)**

---

**ALAN KACHALSKY, ESQ.**

Attorney for Alan Kachalsky

800 Westchester Avenue

Rye Brook, New York 10573

(914) 220-5324

Rule 130-1.1-a certification



ALAN KACHALSKY, ESQ.

---

TO:

Pistol Permit Department  
County of Westchester  
110 Dr. Martin Luther King Jr.  
Blvd., Rm. 340A  
White Plains, New York 10601  
(914) 995-2709

Office of the Attorney General  
Westchester Regional Office  
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HON. SUSAN CACACE  
County Court Judge  
111 Dr. Martin Luther King Jr. Blvd.  
White Plains, New York 10601  
(914) 824-5401

Charlene M. Indelicato  
County Attorney, County of Westchester  
148 Martine Ave., Rm 600  
White Plains, New York 10601  
(914) 995-5858

SUPREME COURT OF THE CITY OF NEW YORK  
APPELLATE DIVISION : SECOND DEPARTMENT

---

In the Matter of ALAN KACHALSKY,

Petitioner,

Docket No.

-against-

SUSAN CACACE, as Justice of the County Court

Respondent.

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**ARTICLE 78 PETITION (RE: DENIAL OF FULL-CARRY PISTOL PERMIT)**

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**ALAN KACHALSKY, ESQ.**  
Attorney for Alan Kachalsky  
800 Westchester Avenue  
Rye Brook, New York 10573  
(914) 220-5324

Rule 130-1.1-a certification

  
ALAN KACHALSKY, ESQ.

---

TO:

Pistol Permit Department  
County of Westchester  
110 Dr. Martin Luther King Jr.  
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HON. SUSAN CACACE  
County Court Judge  
111 Dr. Martin Luther King Jr. Blvd.  
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Charlene M. Indelicato  
County Attorney, County of Westchester  
148 Martine Ave., Rm 600  
White Plains, New York 10601  
(914) 995-5858

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: SECOND DEPARTMENT

-----X  
In the Matter of

ALAN KACHALSKY

Petitioner,

For a judgment under Article 78 of  
Civil Practice Law and Rules

**ANSWER AND  
AFFIRMATION  
IN OPPOSITION TO  
ARTICLE 78  
PETITION**

-against-

HON. SUSAN CACACE, Westchester County  
Court Judge of the State of New York,

Respondent.  
-----X

CHARLES F. SANDERS, an attorney duly admitted to the Bar of this State  
affirms and states as follows, under penalties of perjury:

1. I am an Assistant Attorney General in the Office of Andrew M. Cuomo,  
Attorney General of the State of New York, attorney for respondent the Honorable Susan Cacace,  
Westchester County Court Judge of the State of New York ("Judge Cacace" or "respondent") in  
this Article 78 proceeding brought by petitioner Alan Kachalsky ("petitioner").

2. I submit this answer and affirmation in opposition to petitioner's Article 78  
petition. I am familiar with this matter based upon a review of the papers submitted by  
petitioner, the underlying proceedings, and through conversations with Chambers of Judge  
Cacace.

3. Petitioner brings this Article 78 petition seeking an order annulling the October  
8, 2008 Decision and Order of Judge Cacace, a writ of mandamus compelling Judge Cacace to

issue an unrestricted “Full Carry” pistol license to petitioner pursuant to New York State Penal Law Section 400, and a writ of prohibition enjoining the State of New York from enforcing the requirements of Section 400 that a court find “proper cause” for issuing full-carry permits. For the reasons set forth herein, petitioner’s application should be denied.

4. All allegations in the petition are denied unless specifically admitted herein.

#### **Statutory/Regulatory Framework**

5. Penal Law §400.00(1) states, in pertinent part: “No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true.”

6. Penal Law §400.00(2)(f) states, in pertinent part: “A license for a pistol or revolver . . . shall be issued to, have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof.”

7. Penal Law §400.00(4) states, in pertinent part: “Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made.”

8. Penal Law §265.00(10) defines “licensing officer” and for the purposes of Westchester County said licensing officer is a county court judge.

#### **Statement of Facts**

9. On May 13, 2008, Petitioner submitted an application for a New York State unrestricted “Full Carry” pistol license. See Attachment: Full Carry, Petition, Exhibit 2.

10. Judge Cacace, in her capacity as a handgun licensing officer for the County of Westchester, reviewed and considered the Westchester County Department of Public Safety’s



background investigation of petitioner prior to making a determination with respect to the proposed issuance of a pistol permit. See Decision and Order, Petition, Exhibit 1 at 1.

11. By Decision and Order, dated October 8, 2008, Judge Cacace denied petitioner's application for a unrestricted Full Carry pistol license based on petitioner's failure to demonstrate "a need for self protection distinguishable from that of the general public." See Decision and Order, Petition, Exhibit 1 at 2.

### **Argument**

#### **Respondent Reasonably Exercised Her Discretion When She Denied Petitioner's Pistol Permit Application**

12. The standard of review in such a proceeding is whether the agency determination was rationally based and not arbitrary and capricious. Sumowicz v. Kelly, 14 A.D.3d 407 (1st Dep't 2005), appeal den., 5 N.Y.3d 712 (2005)(court upheld denial of pistol permit because it was a rationally based administrative determination); Matter of Bernstein v. NYPD, 85 A.D.2d 574,574 (1st Dep't 1981)(denial of full carry pistol license not arbitrary and capricious where petitioner has failed to establish "proper cause"). To the extent that petitioner relies on Leone v. Silverman, 153 A.D.2d 862 (2nd Dep't 1989), that case is distinguishable in that the first court that granted the original license had already found a sufficient basis to grant the petitioner a license, whereas here, no such basis exists.

13. Where there is a rational basis for the determination, the court may not disturb the agency's decision. This is so "even where the court might have reached a contrary result." Kaplan v. Bratton, 249 A.D.2d 199, 201 (1st Dep't 1998)(judicial review in pistol permit cases "is limited to deciding whether the agency's actions were arbitrary and capricious").

14. Indeed, it is well-settled that “[t]he possession of a handgun license is a privilege rather than a right.” Sewell v. City of New York, 182 A.D.2d 469, 472 (1st Dep’t 1992), appeal denied, 80 N.Y.2d 756 (1992). See also, Williams v. Bratton, 238 A.D.2d 269, 270 (1st Dep’t 1997).

15. Thus, a pistol permit may be denied for any good cause. Marlow v. Buckley, 105 A.D.2d 1160, 1161 (4th Dep’t 1984). A licensing officer possesses exceptionally broad discretion in determining whether to issue a pistol permit. See Eddy v. Kirk, 195 A.D.2d 1009, 1010 (4th Dep’t 1993), aff’d sub nom. O’Connor v. Scarpino, 83 N.Y.2d 919 (1994).

16. Judge Cacace’s decision denying petitioner’s pistol permit application, based upon petitioner’s failure to demonstrate factors warranting a need for self protection different from the general public is rationally supported by the record and, therefore, is neither arbitrary nor capricious. Fromson v. Nelson, 178 A.D.2d 479 (2nd Dep’t 1991) (pistol licensing officer has broad discretion in ruling on permit applications, which the licensing officer can deny for any good reason); Matter of Klenosky v. NYPD, 75 A.D.2d 793 (1st Dep’t 1980)(failure of petitioner to sufficiently demonstrate a special need for self-protection distinguishable from that of the general community or persons engaged in the same profession provided sufficient basis to deny the application). After a review of the record, including petitioner’s application, Judge Cacace rendered the October 8, 2008 Decision and Order to deny the license based on petitioner’s failure to demonstrate proper cause for the need of an unrestricted full carry pistol license.

**Respondent is not Required to Provide Petitioner an Opportunity to Respond to Objections to his Application in Cases Where the Petitioner has not Met his Burden to Establish Proper Cause**

17. An applicant for an “On-premises” pistol permit (in contrast to “Full Carry”)

must meet four requirements: 1) good moral character; 2) no prior felony or serious offense convictions; 3) no history of mental illness; and 4) for whom no “good cause” exists to deny the license. See Archibald v. Codd, Police Commissioner of the City of New York, 59 A.D.2d 867 (1st Dep’t 1977); Penal Law § 400.00(2). Applicants seeking a license for a Full Carry pistol permit must meet an additional requirement that “proper cause exists for the issuance thereof”. See Penal Law § 400.00(1)(e); Archibald at 867. Petitioner has failed to meet his burden of establishing “proper cause”.

18. At least one case suggests that an applicant needs to be given an opportunity to respond to any objections against the application *only if* the licensing officer relies on the objections, and the reasons therefore, to make its determination. See Matter of Demyan v. Monroe, 108 A.D.2d 1004, 1005 (3rd Dep’t 1985)(citing Matter of Guida v. Dier, 54 A.D.2d 86, 87 (3rd Dep’t 1976). Although Judge Cacace mentions the Westchester County Department of Public Safety’s recommendation, the decision and order is based upon Petitioner’s failure to establish proper cause. See Decision and Order, Petition, Exhibit 1 at 2.

19. To the extent that an applicant must be given an opportunity to respond to any objections to his or her application, see Matter of Savitch v. Lange, 114 A.D.2d 372, 373 (2nd Dep’t 1985), there is no need for such an opportunity when the decision to deny is based on a failure by the applicant to meet the application requirements. See supra at 17; Matter of Bando v. Sullivan, 290 A.D.2d 691, 692-93 (3rd Dep’t 2002)(denial not arbitrary and capricious where applicant failed to establish “proper cause” for a “Full Carry” permit). In this case Petitioner was fully aware of the potential negative history, having submitted the information and statements in his application, and was given a full opportunity at the time of the application to clarify these



incidents. See Petitioner's Application and Supporting Statements, Exhibit A. Furthermore, the recommendation for denial of Petitioner's application by the Department of Public Safety was not based on the negative history in Petitioner's application, but was based on the fact that he was unable to demonstrate a need for self-protection different from that of the general public – the same grounds Judge Cacace denied the application on. See Decision and Order, Petition, Exhibit 1; Department of Public Safety's Recommendation of Disapproval, Exhibit B. An applicant only needs to be given an opportunity to respond when the determination is based on information not available to him or her, therefore petitioner's assertion that he has been denied an opportunity to respond is unavailing.

**Requiring A Pistol Permit Is Proper Under New York Law**

20. Contrary to petitioner's allegations (see Petition, p. 7), his civil and constitutional rights have not been violated. The Second Amendment to the U.S. Constitution does not limit the authority of the states to regulate arms, especially handguns and pistols. By neither the Second Amendment nor Civil Rights Law §4 does an individual have an unfettered right to possess and bear arms absent any regulation, for the courts have stated that:

While the petition under article 78 of the Civil Practice Act invokes the guarantee of the Second Amendment to the Constitution of the United States, petitioner's brief on this appeal relies not upon those provisions but upon section 4 of the Civil Rights Law, which, except for the substitution of "cannot" for "shall not" is *in ipsissimis verbis* as those of the Second Amendment. Accordingly, authoritative Federal decisions construing the Second Amendment may properly be applied to the State statute in the interest of homogeneity of interpretation. (*Matter of Weiden*, 263 N.Y. 107; *Matter of Cregan*, 276 N.Y. 337.) Obviously, petitioner cannot rest his case upon the Second Amendment which is a limitation upon the exertion of the power of Congress and the national government, but not upon that of the state. (*United States v. Cruikshank*, 92 U.S. 542, 553; *Presser v. Illinois*, 116 U.S. 252, 265.) Moreover, the Second Amendment created no right



to bear arms, a right which long ante-dated the adoption of the Federal Constitution, having originated in a design to strengthen the national militia, an institution first established by King Alfred. (*Robertson v. Baldwin*, 165 U.S. 275, 282; *United States v. Miller* 307 U.S. 174, 179.) Indeed, the main purpose of the Second Amendment was to enable the Federal Government to maintain the public security. (*Presser v. Illinois*, *supra*.) Again, the Supreme Court of the United States has held that the right to keep and bear arms is not infringed by laws prohibiting the carrying of concealed weapons (*Robertson v. Baldwin*, 165 U.S. 275, 281, 282)....

Matter of Moore v. Gallup, 267 A.D. 64, 67-68 (3rd Dep't 1943), affirmed, 293 N.Y. 846 (1944).

Despite the U.S. Supreme Court's recent decision in District of Columbia v. Heller, 128 S.Ct.

2783 (2008), that the Second Amendment provides a right for an individual to own a handgun,

that case was limited to the narrow question of whether an outright prohibition on gun ownership

was constitutional. In fact, the Supreme Court held in Heller that the Second Amendment did not

guarantee a "right to keep and carry any weapon whatsoever in any manner whatsoever and for

whatever purpose". See id. at 2816. Currently New York law requires the licensing of

individuals seeking to possess a handgun within its jurisdiction and a showing of proper cause

for an unrestricted full carry pistol license. Clearly, that is both the prevailing law and the law to

be applied in this proceeding. See, e.g., Eddy v. Kirk, 195 A.D.2d 1009, 1010 (4th Dep't 1993),

aff'd sub. nom. O'Connor v. Scarpini, 83 N.Y.2d 919 (1994)(licensing officer possesses

exceptionally broad authority under Penal Law § 400.00 which is the exclusive statutory

mechanism that governs the licensing of firearms in New York State). In the instant case,

petitioner's failure to demonstrate a need different from that of the general public for self-

protection is clearly a reasonable basis upon which to deny him a pistol license. See Petition,

Exhibits 1 and 2.

**Mandamus Does Not Lie to Compel the Issuance of  
A Pistol Permit to Petitioner**

21. It is well settled that mandamus is an extraordinary remedy that lies only “to compel the performance of a purely ministerial act where there is a clear legal right to the relief sought.” Matter of Legal Aid Society of Sullivan County v. Scheinman, 53 N.Y.2d 12, 16 (1981). See also Harper v. Angiolillo, 89 N.Y.2d 761, 765 (1997). It will not be awarded to compel an act involving the exercise of judgment or discretion. Klostermann v. Cuomo, 61 N.Y.2d 525, 539 (1984).

22. “A ministerial act ... has been defined as a specific act which the law requires a public officer to do in a specified way.” Matter of Posner v. Levitt, 37 A.D.2d 331, 332 (3d Dep’t 1971). The relief demanded in the petition must be specifically and “clearly imposed by law . . . . It is not enough that the act, performance of which is sought, is not prohibited, its performance must be directed.” Matter of Burr v. Voorhis, 229 N.Y. 382, 387 (1920).

23. In fact, “[m]andamus is available only where the petitioner’s right to performance is so clear as to admit of no doubt or controversy.” Coastal Oil New York Inc. v. Newton, 231 A.D.2d 55, 57 (1st Dep’t), appeal dismissed 91 N.Y.2d 848 (1997), appeal denied 91 N.Y.2d 808 (1998). To demonstrate a “clear legal right” to the relief requested, the petitioner must show “a clear and unequivocal expression of intent from the Legislature . . . .” Harper v. Angiolillo, 89 N.Y.2d at 767. Without a clear statutory direction, mandamus will not lie. Id.; Anonymous v. Grievance Committee, 244 A.D.2d 549, 550 (2d Dep’t 1997), appeal denied 91 N.Y.2d 808 (1998) (mandamus does not lie to compel an act which involves the exercise of discretion).

24. Here, petitioner does not have a clear right to an unrestricted full carry pistol permit. See Williams v. Bratton, 238 A.D.2d at 270 (issuance of license to carry a gun is a privilege not a right).

WHEREFORE, Judge Cacace respectfully requests that this Court dismiss petitioner's Article 78 proceeding in its entirety and grant such other and further relief as the Court deems just and proper.

Dated: New York, New York  
March 13, 2009

ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Judge Susan Cacace

By:



CHARLES F. SANDERS  
MICHAEL J. SIUDZINSKI  
Assistant Attorney General  
120 Broadway, 24<sup>th</sup> Floor  
New York, New York 10271  
(212) 416-8594/8552/8610

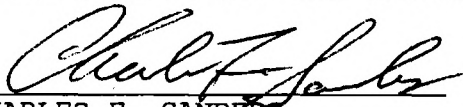
STATE OF NEW YORK     )  
                              : ss.:  
COUNTY OF NEW YORK    )

CHARLES F. SANDERS, being duly sworn, deposes and says:

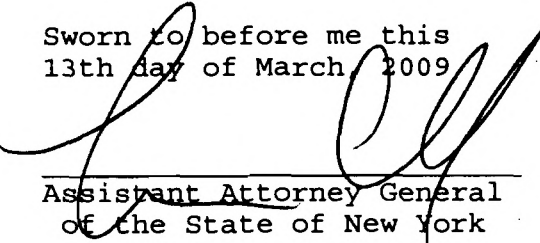
I am of Assistant Attorney General and of counsel to the Attorney General of the State of New York, attorney for respondent Justice Cacace, a justice of the County Court of Westchester County, New York State.

I am familiar with the facts of this proceeding and make this verification pursuant to § 3020(d)(2) of the Civil Practice Law and Rules because respondent is an officer of the State of New York.

I have read the foregoing Answer and Affirmation and am familiar with its contents. The statements made therein are true to the best of my knowledge, and are based upon the proceedings, record, and decisions involving the petitioner's pistol permit application. As to those matters therein stated on information and belief, I believe them to be true based upon the same review and conversations.

  
\_\_\_\_\_  
CHARLES F. SANDERS

Sworn to before me this  
13th day of March, 2009

  
\_\_\_\_\_  
Assistant Attorney General  
of the State of New York



STATE OF NEW YORK     )  
                                      : SS.:  
COUNTY OF NEW YORK    )

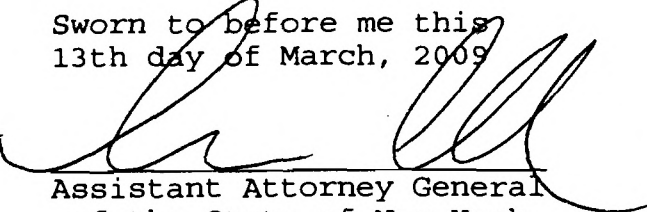
CHARLES F. SANDERS, being duly sworn, deposes and says:

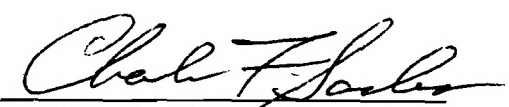
That he is an Assistant Attorney General in the office of the Attorney General of the State of New York, Attorney for respondent Justice Cacace, a justice of the County Court of Westchester County, New York State. On the 13th day of March, 2009, he served the annexed Answer and Affirmation in Opposition upon the following named person:

Mr. Alan Kachalsky, Esq.  
800 Westchester Avenue, Suite S-608  
Rye Brook, New York 10573

petitioner pro se in the within entitled proceeding by depositing a true and correct copy thereof, properly enclosed in a post-paid regular mail wrapper, in a post-office box regularly maintained at 120 Broadway, New York, New York 10271 directed to said petitioner pro se at the address within the State designated by him for that purpose.

Sworn to before me this  
13th day of March, 2009

  
Assistant Attorney General  
of the State of New York

  
CHARLES F. SANDERS

SUPREME COURT OF THE STATE OF NEW  
YORK APPELLATE DIVISION:  
SECOND DEPARTMENT

---

In the Matter of  
ALAN KACHALSKY,

Petitioner,

For a judgment under Article 78 of  
Civil Practice Law and Rules  
- against -

HON. SUSAN CACACE, Westchester County  
Court Judge of the State of New York  
Respondant.

---

**ANSWER AND AFFIRMATION IN  
OPPOSITION TO ARTICLE 78 PETITION**

---

ANDREW M. CUOMO  
Attorney General of the State of  
New York

---

**ATTORNEY FOR DEFENDANTS**

---

BY: CHARLES F. SANDERS  
MICHAEL SIUDZINSKI (*admission pending*)  
Assistant Attorneys General  
120 Broadway, 24<sup>th</sup> Floor  
New York, New York 10271

Tel. No.: (212) 416-8594/8552

Fax Nos.: 212-416-6075/6009/6076  
(Not for Service of Papers)  
Due Service of a copy of the within is  
admitted this \_\_\_\_ day of \_\_\_\_, 2008

## ALAN KACHALSKY, ESQ.

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800 Westchester Avenue, Ste S608 • Rye Brook, New York 10573 • (914) 220-5324 • E-mail: catchsky@earthlink.net

November 27, 2009

COURT OF APPEALS

Court of Appeals Hall

20 Eagle Street

Albany, NY 12207-1095

Attn: STUART M. COHEN

RE: In the Matter of Alan Kachalsky v. SUSAN CACACE, as Justice of the  
County Court

Docket #

**Comments Justifying the Retention of Subject Matter Jurisdiction**

Dear Sir/Madam:

This letter constitutes my response to your request for my comments justifying the retention of subject matter jurisdiction of the above-referenced appeal, as requested in Stuart M. Cohen's letter dated November 18, 2009.

The appeal involves the fundamental question of whether New York's handgun licensing statute (§400.00) of the Penal Law is Constitutional or whether, as alleged by appellant, it violates the Second Amendment right to keep and bear arms.

It is respectfully contended that the right to keep and bear arms is fundamental to the exercise of all other rights, but especially the right to life, liberty and the pursuit of happiness.

Without the right to defend oneself, a person's very life, not to mention liberty, is subject to the whim and caprice of any person who is stronger, larger, or better armed. As has occurred countless times throughout history, a stronger or better-armed person can deprive an unarmed man or woman of life and/or liberty.

The drafters of the Bill of Rights, in recognition of the inherent right of self-defense, enacted the Second Amendment, which provides that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

This appeal raises the issue of whether §400.00(2)(f) of the Penal Law violates the Second Amendment of the Constitution of the United States in that it requires that applicants for carry (pistol) permits to demonstrate that "proper cause exists for the issuance thereof."



As appellant argued in his Article 78 petition to the Second Department, a 'right' is not something one must demonstrate a need for, in order to exercise the right. It is there to be exercised if and when the individual chooses to exercise the right. No one is required to demonstrate, to the satisfaction of a bureaucrat, 'a need' for one's Right to Free Speech prior to exercising this right; one should not be required to 'demonstrate' that they meet some vague, subjective threshold in order to exercise their Second Amendment right (which as the Supreme Court said in *Heller*, merely "codified a pre-existing right."<sup>1</sup>)

This requirement (to demonstrate that "proper cause exists for the issuance thereof), when applied to persons who meet the requirements of subdivision 1 of § 400.00<sup>2</sup> is nothing more than a means to limit the exercise of the Constitutional Right to those persons privileged to 'know the right people,' Appellant is unaware of any objective guidelines for determining what constitutes 'proper cause.' A review of case law confirming the denial of carry permits shows that persons who meet the requirements of subdivision 1 of § 400.00 are routinely denied the right to bear arms based on their failure to "demonstrate that "proper cause exists for the issuance thereof."

The imposition of this subjective and Unconstitutional standard creates the danger of the perception that the granting of Carry Permits is based on membership in the 'privileged class;' members of 'the club,' so to speak; which again, is further evidence that to allow applicants to be denied without any specific reason (other than failure to meet the aforesaid vague threshold of "proper cause exists for the issuance thereof") being stated is of itself arbitrary and capricious. In fact, the perception is entirely valid!

One egregious example of the denial of a carry permit to a law-abiding woman surgeon who wished to defend herself, is found in *Kaplan v. Bratton*, 249 A.D.2d 199, 673 N.Y.S.2d 66

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<sup>1</sup> "it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it "shall not be infringed." 128 S.Ct. @ 2797

<sup>2</sup> subdivision 1 of § 400.00 provides that "No license shall be issued or renewed except for an applicant

- (a) twenty-one years of age or older,
- (b) of good moral character;
- (c) who has not been convicted anywhere of a felony or a serious offense;
- (d) who has stated whether he or she has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness;
- (e) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act;
- (f) in the county of Westchester, who has successfully completed a firearms safety course and test \* \* \*; and
- (g) concerning whom no good cause exists for the denial of the license."



(1st Dept.,1998). The Court in *Kaplan*, justified the denial of Dr. Susan Kaplan's carry permit thusly:

"When the proper standard of proof is applied, it is clear that respondent's decision has a rational basis. The License Division correctly required petitioner to show an **extraordinary threat to her safety and, pursuant to its own regulations as interpreted by this court**, rationally concluded that petitioner's general allegations about her work hours and location were insufficient." 673 N.Y.S.2d @ 68.

*Kaplan* demonstrates the three-card monty game nature of the pistol licensing statute. Dr. Susan Kaplan, a urologist applied for a 'Carry Pistol License.' In an attempt to meet the (apparently impossible) burden of demonstrating her need for the license, she alleged that she traveled at night in New York City to meet with patients or to attend to emergencies at the hospitals with which she was affiliated (Columbia Presbyterian, St. Luke's-Roosevelt and St. Vincent's), and that she feared for her personal safety.

The decision reiterated the shifting requirements (apparently designed to permit only the privileged, elite or friends of the privileged or elite to obtain permits) as follows:

"In fact, Penal Law § 400.00(2)(f) requires the petitioner to show "proper cause" for issuance of the permit, which this court has interpreted to mean **"a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession"** (citations omitted). The Police Department's regulations regarding Carry Pistol Licenses, at 38 RCNY § 5-03(b), also require a showing of "extraordinary personal danger, **documented by proof of recurrent threats to life or safety,**" and add that "the mere fact that an applicant ... resides or is employed in a 'high crime area' does not establish 'proper cause' ".

Requiring this concerned, law-abiding citizen to show **"extraordinary personal danger, documented by proof of recurrent threats to life or safety,"** in order to get a license to carry a handgun, demonstrates that the real purpose of the statute is nothing less than to deny ordinary, law-abiding citizens the fundamental right to defend themselves with a handgun, a weapon which the Supreme Court in *District of Columbia v. Heller*, 128 S.Ct. 2783, 171 L.Ed.2d 637, 76 USLW 4631, described as a "class of "arms" that is overwhelmingly chosen by American society for that lawful purpose."

In my application for the carry-permit, I stated (in relevant part), in response to the question "List all factors which you believe to be relevant to your application and which establish proper cause for the issuance of a firearm license for the purpose of Full Carry" as follows:

"[W]e live in a world sporadic random violence might at any moment place one in a position where one needs to defend oneself or possibly others, e.g. random shootings in universities (Virginia Tech), post offices, airline check-in counters, malls, road rage, as well as the run-of-the-mill street muggings and robberies. While the odds of finding oneself in a Virginia Tech type situation are remote, one must reflect that had there been even one armed person, the death toll might have been considerably less than 31 dead. While one never knows what one might do in such situations. It is my belief that it is better to have the option to defend oneself (and others) than not to have the option."

In fact, once again, on Saturday, November 21, 2009, a man pulled a knife on the D train (subway) and, killed an unarmed man (Dwight Johnson) with a knife by severing his carotid artery, on a crowded subway car, in front of (according to the New York Post, November 23, 2009) 20 to 30 witnesses on the subway. Not one of these 'witnesses' had the courage to attempt to stop the attack, or the courage to attempt to stop the perpetrator after the attack. One must wonder how many of those people on the train, perhaps even the deceased victim, been turned down for carry permits because they were unable to demonstrate "a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession" or to make the requisite showing of "extraordinary personal danger, **documented by proof of recurrent threats to life or safety.**" One must wonder whether the victim of this attack would be able to meet this threshold, as he only sustained one threat to life or safety, rather than 'recurrent threats.' Unfortunately for Mr. Johnson, his first threat to life or safety was also his last.

It is clear that one cannot rely on the police for personal protection. As long as the State of New York continues to allow bureaucrats to deny carry permits to law-abiding persons who meet the criteria of subdivision 1 of § 400.00, on the grounds that they did not demonstrate, to the subjective standards of some bureaucrat, "that "proper cause exists for the issuance (of a carry-permit)," then people like Dwight Johnson, the deceased victim of the subway knifing, can do very little more than attempt to appease men like Gerardo Sanchez, or attempt to protect themselves with their bare hands. As history has proven time and time again, oftentimes, attempting to appease a criminal doesn't keep you alive.

This Court should note that the Supreme Court, in *Heller*, recently held that:

- (1) the Second Amendment conferred an individual right to keep and bear arms;
- (2) statutes banning handgun possession in the home violated Second Amendment; and
- (3) statute containing prohibition against rendering any lawful firearm in the home operable for purpose of immediate self-defense violated Second Amendment.

On September 30, 2009, the Supreme Court announced that it would hear the case of *McDonald v. City of Chicago*, where it would decide whether the Second Amendment applies to the States.

Based upon the Supreme Court's recent decision in *Heller*, and as well as their decision to hear *McDonald*, it is clear that the issue of the Constitutionality of New York's handgun licensing law (§400.00 of the Penal Law) is an extremely significant and timely issue which should justify the Court of Appeals retention of subject matter jurisdiction.

Very truly yours,

  
ALAN KACHALSKY

cc:

ANDREW M. CUOMO  
Attorney General of the State of New York  
120 Broadway, 24<sup>th</sup> Floor  
New York, NY 10271

The Solicitor General  
Department of Law  
The Capitol  
Albany, New York 12224

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DEC 01 2009

DIV. OF APPEALS & OPINIONS-NYC



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X		
Alan Kachalsky, Christina Nikolov, and	:	
Second Amendment Foundation,	:	
	:	
Plaintiffs,	:	<b>Civil Action Number:</b>
	:	<b>10-cv-5413</b>
-against-	:	
	:	<b>(Hon. Cathy Seibel)</b>
Susan Cacace, Jeffrey A. Cohen, and	:	
County of Westchester,	:	
	:	
Defendants.	:	
-----X		

Philip J. Cook, declares and states as follows, under penalties of perjury:

**I. Credentials**

1. My current academic appointment is at Duke University, where I am ITT/Sanford Professor of Public Policy, Professor of Economics and Sociology, and Senior Associate Dean of the Sanford School of Public Policy. I began my research program on firearms violence in 1975, and since then have co-authored scholarly books and articles on a variety of related topics, including the economic costs of gun violence, the illicit markets for guns, the consequences of weapon choice in robbery and assault, the influence of gun availability on gun use in crime, the use of guns in self-defense, and the effectiveness of gun control regulations. I have served on expert panels for the National Academy of Sciences that dealt with violence prevention, "smart" guns, rampage shootings in schools, and injury control. I also served as Consultant to the Enforcement Division of the United States Department of Treasury (1999-2000), which at that time included the Bureau of Alcohol, Tobacco and Firearms. I was elected fellow of the American Society of

Criminology in 2000, and elected Member of the Institute of Medicine of the National Academies in 2001. A full curriculum vitae is Appendix A of this declaration.

## **II. Summary**

2. This declaration will present empirical evidence and my expert opinions concerning several issues arising out of this litigation:
  - a. Gun violence is a serious public health and safety problem that has social and economic consequences.
  - b. The type of weapon used by a perpetrator of violent crime is an important determinant of whether the victim is killed.
  - c. Weapon choice by violent offenders is influenced by the availability of firearms and has a direct effect on the criminal homicide rate
  - d. The prevalence of firearms does not affect rates of assault, robbery, or rape but has a direct positive effect on the lethality of criminal assault.
  - e. Most crime guns are handguns.
  - f. Gun carrying away from home contributes directly to the use of guns in violent crime.
  - g. Westchester County issues relatively few concealed-carry licenses.
  - h. The assertion that a more lenient system for issuing concealed carry permits would result in less crime lacks empirical support and has been discredited by an expert panel of the National Academy of Sciences.
  - i. If law enforcement officials were required to issue CCW licenses to all adult applicants without a serious criminal record, a majority of future felony arrestees would qualify to carry concealed handguns in public.

## **III. Opinions**

- a. **Gun Violence is a Serious Public Health and Safety Problem that has Social and Economic Consequences.**
3. A great many Americans die by gunfire. The gun deaths from homicide, accident and suicide have totaled close to one million during the last three decades. Firearms play a dominant role in the most serious violent crimes. In 2007, the most recent year for which the National Center for Health Statistics provides data on injury deaths, there were

18,361 criminal homicides, of which 69% were committed with guns. Emergency rooms treated nearly 50,000 nonfatal gunshot injuries from assaults. And there were a total of over 300,000 assaults and robberies in that year in which the perpetrator used a gun.<sup>1</sup>

4. Criminal homicide is not evenly distributed across the population, but highly concentrated among youthful minority males. In 2007, homicide victimization rates were 15 times as high for black men aged 15-34, as for white non-Hispanic men in this age group. Homicide is the leading cause of death for black males age 15-34, and the second-leading cause of death for Hispanic males in this age group.
5. Firearms also pose a particular threat to public officials and law enforcement officers. Fourteen of the 15 direct assaults against Presidents, Presidents-elect, and presidential candidates in United States history were perpetrated with firearms, including the five resulting in death. (The one exception, a failed attack with a hand grenade against President George W. Bush, occurred overseas.)<sup>2</sup> Of the 536 law enforcement officers who were feloniously killed between 2000 and 2009, 490 (91%) were assaulted with a firearm and 73 % of those were with a handgun.<sup>3</sup>
6. I have conducted extensive research on the societal costs of gun violence and the threat of gun violence. The costs of gun violence to society are more evenly distributed across the population than victimization statistics would suggest. I and my colleagues estimated the costs of treating gunshot wounds to be \$2 billion per year.<sup>4</sup>

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<sup>1</sup> [http://www2.fbi.gov/ucr/cius2009/data/table\\_19.html](http://www2.fbi.gov/ucr/cius2009/data/table_19.html) accessed January 17, 2011.

<sup>2</sup> <http://www.fas.org/sgp/crs/misc/RS20821.pdf> accessed 1/10/11. Congressional Research Service Report to Congress, "Direct Assaults on Presidents, Presidents-Elect, and Candidates" Jan 7, 2008.

<sup>3</sup> [http://www2.fbi.gov/ucr/killed/2009/data/table\\_27.html](http://www2.fbi.gov/ucr/killed/2009/data/table_27.html)

<sup>4</sup> PJ Cook, B Lawrence, J Ludwig, and T Miller, "The Medical Costs of Gunshot Wounds" *Journal of the American Medical Association* 282(5), August 4, 1999, 447-454.



7. The threat of being shot causes private citizens and public institutions to undertake a variety of costly measures to reduce this risk. Furthermore, the threat of gun violence is in some neighborhoods an important disamenity, causing residents to be fearful and to take special precautions to protect themselves and their children. That threat depresses property values and puts a drag on economic development. Together with economist Jens Ludwig, I quantified the overall magnitude of these social costs by conducting a contingent-valuation survey that asked individuals what they would be willing to pay to reduce gun violence somewhat in their community. Based on their responses we estimated an overall cost of assault and homicide to be \$80 billion in 1995.<sup>5</sup>
- b. The Type of Weapon Used by a Perpetrator of Violent Crime is an Important Determinant of Whether the Victim is Killed.**
8. The government has an interest in reducing the number of guns used in violent crime in order to reduce the number of deaths and life-threatening injuries that are produced when guns rather than less deadly weapons are used in crime.
9. Guns are intrinsically more deadly than other weapons that are commonly used in criminal assault, in that they provide a means of inflicting a fatal wound quickly, from a distance, with little personal risk, determination, involvement, or strength required. Gun use in an assault increases the likelihood of death by making it easier to kill. As a result, while only a small fraction (5 percent) of criminal assaults are perpetrated with guns, over two-thirds of fatal assaults (murders and non-negligent homicides) are perpetrated with guns.

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5. J Ludwig and PJ Cook, "The Benefits of Reducing Gun Violence: Evidence from Contingent-Valuation Survey Data" *Journal of Risk and Uncertainty* 22(3), 2001: 207-226.



10. In two seminal articles, Franklin Zimring provided systematic evidence that the weapon type used in an assault affects the likelihood the victim will be killed.<sup>6</sup> Zimring drew on crime data from Chicago to show that case-fatality rates in gun attacks are a multiple of those in knife attacks, despite the fact that the circumstances are generally quite similar. In serious attacks, he concluded, the difference between whether the victim lived or died was often a matter of chance rather than a difference in intent, and the chances of a fatality were higher with a gun than a knife. Zimring found further confirmation in comparing the case-fatality rates among shootings involving guns of different caliber.<sup>7</sup> He demonstrated that victims were more likely to die in larger-caliber shootings, again suggesting that the intrinsic lethality of the weapon, and not just the assailant's intent, affected the outcome – a result that I have dubbed the “instrumentality effect.”<sup>8</sup>
11. Research on the specific crime of robbery provides further confirmation for the instrumentality effect. About half of victims of non-commercial robbery included in the National Crime Victimization Survey (“NCVS”) report being physically attacked by the robber (rather than just threatened), and one-fifth require medical treatment. Some victims are seriously wounded or killed. In 2005 the FBI classified 921 murders as robbery-related (6 percent of all murders), implying that on the order of 1 in 1,000 robberies resulted in death that year. Since the most serious potential outcome of a robbery is the victim's death, it is of considerable interest to know what distinguishes

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6 Zimring, F.E. (1968). “Is gun control likely to reduce violent killings?” University of Chicago Law Review, 35, 21-37; Zimring, F.E. (1972). “The medium is the message: Firearm caliber as a determinant of death from assault.” Journal of Legal Studies, 1, 97-124.

7 Id., 1972

8 Cook, P.J. “The Technology of Personal Violence” in Michael Tonry, ed. Crime and Justice: An Annual Review of Research Vol. 14, University of Chicago Press, 1991.

fatal robberies from the great majority in which the victim survives. One of my studies compared robbery murders (as documented by the FBI's Supplementary Homicide Reports) to non-fatal robberies, finding similar statistical patterns with respect to the characteristics of the offenders.<sup>9</sup> The most prominent *difference* between robbery and robbery murder was with respect to the types of weapons used. About two-thirds of robbery murders are committed with guns, while less than *one*-third of robberies involve guns. Gun robberies are three times more likely to result in the death of the victim than knife robberies, and knife robberies three times more likely to result in death than robberies with other weapons.<sup>10</sup> A regression analysis of changes in robbery-murder rates in 43 cities found a close relationship between the robbery rate and the robbery murder rate, as if the latter were simply a probabilistic byproduct of the former. Every additional 1,000 gun robberies added 4 robbery murders to the city's total, while an additional 1,000 nongun robberies added just one murder.<sup>11</sup> The conclusion is that whether the victim of an assault or robbery dies is not just a reflection of the offender's intentions. The type of weapon used by the offender in an assault or robbery has a causal effect on whether the victim lives or dies. If the weapon used is a loaded firearm, the victim is much more likely to die than if the weapon is a knife or club. If the fraction of assaults or robberies involving guns increases, then the death rate will also increase.

**c. Weapon Choice by Violent Offenders is Influenced by the Availability of Firearms and Has a Direct Effect on the Criminal Homicide Rate.**

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<sup>9</sup> Cook, P.J. (1987) "Robbery Violence." Journal of Criminal Law & Criminology. 78(2), 1987, 366.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, 373. See also William Wells and Julie Horney, Weapon effects and individual intent to do harm; influences on the escalation of violence" Criminology 40(2), May 2002, 265-296.

12. The likelihood that a gun will be used in crime is closely linked to the general availability of guns, and especially handguns. Currently about one in three households nationwide are in possession of at least one firearm, and one in five households are in possession of a handgun. The prevalence of gun ownership differs widely across the counties and states, and is lower in New York State, and Westchester County in particular, than is true for the United States as a whole.

13. On average it is easier for youths and criminals to obtain guns in jurisdictions in which gun ownership is common than when gun ownership is relatively rare. The types of transactions by which youths and felons obtain guns include thefts from homes and vehicles, loans from family members and friends, and off-the-books sales. In a high-prevalence area, the informal off-the-books transactions of this sort are easier to arrange and may well be cheaper than in markets where gun ownership is relatively rare.<sup>12</sup> That is true even though in jurisdictions with low prevalence and relatively tight controls, traffickers supply the underground market with guns acquired in other jurisdictions that have looser controls.<sup>13</sup>

**d. The prevalence of firearms does not affect rates of assault, robbery, or rape but has a direct positive effect on the lethality of criminal assault.**

14. My research has provided strong evidence that the prevalence of gun ownership is closely linked to the likelihood that robbers or assailants will use a gun as opposed to a knife or other weapon. In articles published in scientific journals, I and my coauthors have

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<sup>12</sup> Cook, P.J., Ludwig, J., Venkatesh S.A., and Braga, A.A. (2007) "Underground Gun Markets" The Economic Journal, 117 (524), 588-618.

<sup>13</sup> PJ Cook and A Braga, "Comprehensive Firearms Tracing: Strategic and Investigative Uses of New Data on Firearms Markets" Arizona Law Review 43(2) 2001:277-309.



analyzed the effect of changes in the prevalence of gun ownership in the states or 200 largest counties on several crime-related outcomes.

- i. In a cross-section analysis of data from a survey of adolescent males, I found that the prevalence of gun ownership has a strong positive relationship to the probability of gun carrying by adolescent males.<sup>14</sup> Thus an increase in gun prevalence is associated with an increase in gun carrying by adolescent males. (Gun prevalence has no effect on the likelihood of carrying a knife or other type of weapon.)
- ii. In an analysis of Uniform Crime Reports data for the 200 largest counties over 20 years, we found that an increase in the prevalence of gun ownership also increases the percentage of robberies committed with a gun.<sup>15</sup>
- iii. The prevalence of firearms does not affect rates of assault, robbery, or rape.<sup>16</sup>

15. I conclude that an increase in gun ownership has on balance no deterrent effect on violent crime. Thus the prevalence of firearms does not affect the *volume* of violence, but has a positive effect on the death rate in assault and robbery (e.g., the criminal homicide rate).

16. These results help explain international differences in violence. The rates of assault and robbery in the United States are similar to those in Canada, Western Europe, and Australia. But our criminal homicide rate is far higher. The difference is that firearms are more prevalent and readily available in the United States, and as a result violent offenders in the United States are far more likely to use a firearm. As a result, the death rates in the United States are higher.<sup>17</sup>

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14 Cook, P.J., and Ludwig, J. "Does Gun Prevalence Affect Teen Gun Carrying After All?" Criminology 42(1), 27-54.

15 Cook, Ludwig and Venkatesh 2007; and PJ Cook "The Effect of Gun Availability on Robbery and Robbery Murder: A Cross-Section Study of Fifty Cities" Policy Studies Review Annual, Volume 3, Sage Publications, 1979, pp. 743-781.

16 *Id.*, Cook 1979; and PJ Cook and J Ludwig "The Social Costs of Gun Ownership" Journal of Public Economics 90(1-2), January 2006: 379-391

17 Zimring, F.E., & Hawkins, G. (1997). Crime is not the problem: Lethal violence in America. New York: Oxford



**e. Most Crime Guns are Handguns.**

17. While only about one third of the firearms in private possession are handguns (pistols or revolvers, as opposed to rifles or shotguns), the vast majority of gun assaults and robberies are perpetrated with handguns. For example, in 2009, 88% of all criminal homicides involving guns were committed with handguns.<sup>18</sup> Over 90% of gun robberies involve handguns. Assaults choose handguns over long guns in part because handguns are smaller and more conveniently carried on the person or in a vehicle and can be readily concealed from law enforcement officers, potential victims, and the public at large. Because handguns pose a particular hazard to public safety, they have traditionally been subjected to more stringent regulation than rifles and shotguns (which are commonly used for hunting and other sporting purposes). For example, the federal Gun Control Act limits sales of handguns by dealers to those age 21 or older, whereas the minimum age for long gun sales is 18. A number of states require that anyone intending to acquire a handgun first obtain a special license or permit from state or local authorities; for seven states, including New York State, that requirement only applies to handguns. Similarly, six states limit the purchase of handguns (but not rifles or shotguns) to one per month.

**f. Gun Carrying Away from Home Contributes Directly to the Use of Guns in Violent Crime.**

18. For an offender to use a gun logically requires that the offender is carrying a gun or has ready access to one at the time of the commission of a crime.<sup>19</sup> For that reason the state

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University Press.

<sup>18</sup> FBI, Crime in the United States, 2009: Table 8.

<sup>19</sup> Sherman, L. (2000). "Gun carrying and homicide prevention." Journal of the American Medical Association, 283(9), 1193-1195.

has a legitimate interest in the regulation of whether and how guns are carried in public, and by whom.

19. Concern about the criminal use of guns in public has engendered state and local regulations that limit carrying. In many cities, police departments have adopted targeted patrol against illegal gun carrying in an effort to reduce gun misuse.<sup>20</sup>
20. Targeted patrol against illicit gun carrying has been shown to be effective. In 1998, the Pittsburgh Police Department instituted a Firearm Suppression Patrol against illegal carrying. This program involved expansion of patrol activities during high crime periods of the week, in two high crime areas of the city. A careful analysis found that the program, which increased the number of stops of suspicious vehicles and pedestrians, had the effect of reducing gun misuse, including “shots fired” calls and gunshot injuries.<sup>21</sup>
21. All but three states currently ban carrying a concealed firearm or (more commonly) restrict carrying to those who have obtained a license or permit for that purpose. In 33 states the statute requires the relevant authority to issue a license to any applicant who meets certain minimum requirements and pays the required fee; both the requirements and the fee differ among these “shall issue” states. In other states the issuing authority has some discretion in responding to an application. These “may issue” states, including New York State, generally require that the applicant, in addition to meeting minimum requirements and paying a fee, demonstrate a special need to carry a concealed weapon.

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20 PJ Cook, J Ludwig, SA Venkatesh, and AA Braga “Underground Gun Markets” The Economic Journal, 117 (524) November, 2007: 588-618; Cook, P.J. and Ludwig, J. “The Social Costs of Gun Ownership.” Journal of Public Economics 90(1-2), 2006, 379-391; Braga, AA and DL Weisburd Policing Problem Places: Crime Hot Spots and Effective Prevention 2010.

21 Cohen, J., & Ludwig, J. (2003). “Policing gun crimes.” In J. Ludwig & P.J. Cook (eds), Evaluating gun policy. 217-239. Washington, DC: Brookings Institution Press.

**g. Westchester County Issues Relatively Few CCW licenses.**

22. May-issue jurisdictions tend to issue fewer concealed-carry (CCW) licenses per capita than shall-issue jurisdictions. In particular, in 2010 Westchester County issued just 139 unlimited permits to carry concealed, and an additional 41 permits for employment-related carrying, for an overall rate of issuance of 0.2 per 1,000 residents per year. In 2008 and 2009, by comparison, Pennsylvania (a shall-issue state) issued permits to carry concealed at a rate of 12 per 1,000 residents per year. (In both New York and Pennsylvania, a permit is valid for five years once issued.) Ohio, another shall-issue state, issued permits at a rate of 5 per 1,000 residents in 2009.

**h. The Assertion that a More Lenient System for Issuing Concealed Carry Permits Would Result in Less Crime Lacks Empirical Support and has been Discredited by an Expert Panel of the National Academy of Sciences.**

23. During the last three decades many states have eased their restrictions on concealed carry, replacing a “may issue” statute (or outright ban) with a “shall issue” statute. These changes have had the effect of increasing the number of private citizens who are legally entitled to carry a conceal firearm. These changes in law and practice provide a sort of policy “experiment” that has been analyzed by scholars to determine whether it has affected crime rates or patterns.

24. This research has been conducted by economists, statisticians, and other social scientists. I have reviewed this research in several published articles.<sup>22</sup> The first prominent study of the effect of the adoption of “shall issue” laws was by John Lott and David Mustard,

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22 PJ Cook, MH Moore, and A Braga, “Gun Control” in James Q. Wilson and Joan Petersilia, eds. Crime: Public Policies For Crime Control, ICS Press, Oakland CA., 2002: 291-329; *op. cit.* Cook and Ludwig 2006.



published in 1997.<sup>23</sup> They reported that these laws had a net deterrent effect on homicide rates, but actually had the effect of increasing property crime rates. For the crime of robbery, a crime that typically occurs in public places, their results were mixed. Since the publication of that article, John Lott has published revised estimates that purport to demonstrate that shall issue laws have a deterrent effect on both violent and property crime (including robbery).<sup>24</sup> Other economists and social scientists have reached different conclusions.

25. Based on my reviews of this literature, my conclusion is the same as the conclusion of the expert panel assembled by the National Research Council of the National Academies, the Committee to Improve Research Information and Data on Firearms. “The evidence to date does not adequately indicate either the sign or the magnitude of a causal link between the passage of right-to-carry [shall-issue] laws and crime rates (p. 7).”<sup>25</sup> In other words, if a state liberalizes its concealed carry law by adopting a “shall issue” provision, there is no scientific consensus for predicting whether the result would be to increase or reduce the rates of homicide and other crime. That does not mean that there would be no effect in fact – only that the current state of the science does not support a prediction of what that effect would be.

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23 Lott, John R., Jr., and David B. Mustard. 1997. “Crime, Deterrence, and Right-to-Carry Concealed Handguns.” Journal of Legal Studies 26, 1: 1–68

24 Lott, J. (2000). More guns, less crime (2<sup>nd</sup> ed.). Chicago: University of Chicago Press.

25 Charles F. Wellford, John V. Pepper, and Carol V. Petrie, editors Firearms and Violence: A Critical Review Washington, DC: National Academies Press, 2005.



26. It is worth emphasizing that this expert committee considered all of the empirical literature that had been published prior to 2005, and also performed its own analysis of the data. There have been numerous studies published, some reporting positive results, and some negative. The conclusion of this panel should be viewed as authoritative in my judgment. The National Research Council of the National Academies was chartered by President Wilson during World War I to provide expert advice to the nation. Since then its committees, including the Committee to Improve Research Information and Data on Firearms, have been appointed from among the leading scholars in the relevant field who have no serious conflicts of interest with respect to the topic at hand. (The experts are not compensated for their service.) The assessment of this neutral group of experts provides the most trustworthy conclusion possible.

**i. If Law Enforcement Officials Were Required to Issue Concealed Carry Licenses to All Adult Applicants Without a Serious Criminal Record, a Majority of Future Felony Arrestees Would Qualify to Carry Concealed Handguns in Public.**

27. In shall-issue states where authorities are required to issue concealed-carry permits to all applicants who meet certain minimum conditions, the list of conditions typically includes a minimum age provision (usually 21) and the list of provisions of the federal Gun Control Act that limit lawful possession. Those provisions include a prior felony conviction, a misdemeanor conviction for domestic violence, an involuntary commitment for mental illness, and a current felony indictment. Of those provisions, the one that is most consistently documented in computerized databases that are available to law enforcement authorities in New York State is felony conviction.

28. It is sometimes alleged that most gun crimes are committed by active criminals who can be readily identified as such. For that reason, it is claimed that issuing concealed-carry

permits to applicants who are not identified criminals poses no risk to the public safety.

But this claim is false. In particular, the evidence demonstrates that a majority of criminal homicides and other serious crimes are committed by individuals who have not been convicted of a felony.

29. One of the first systematic studies of this subject was conducted using data from Illinois.

I, together with two colleagues, found that just 43% of adults arrested for criminal homicide during the 1990s had a felony conviction on their record.<sup>26</sup>

30. Likewise, recent statistics for Westchester County demonstrate that most adults arrested for felony homicide in those counties do not have a prior felony conviction. Over the decade 2000 – 2009, 273 adults were arrested in Westchester County for completed or attempted felony homicide (PL 125), of whom just 111 (41%) had a prior felony conviction. Thus the clear majority of those arrested for felony homicide would have qualified for a concealed-carry permit prior to that arrest *if* the only meaningful condition was the lack of prior felony conviction.

31. I expanded this statistical inquiry to include all adults (age 21 and over) arrested for a felony in Westchester County, and in New York State overall. In 2009, 3,644 individuals were arrested for a felony in Westchester County. Of those, just 1,084 (30%) had a prior felony conviction. One implication is that if Westchester County were required to issue concealed-carry permits to all adult applicants who lacked a felony conviction, then most (70%) of those arrested for a felony in 2009 would have qualified prior to their arrest.

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<sup>26</sup> PJ Cook, J Ludwig, and A Braga “Criminal Records of Homicide Offenders” Journal of the American Medical Association 294(5), August 3, 2005: 598-601.

For all of New York State, just 33% of the 109,705 adults arrested for a felony had a prior felony conviction.

32. These statistics demonstrate that most adults who are arrested for felony homicide would not have been barred from obtaining a permit to carry a concealed firearm prior to that arrest, *if* the only requirements for obtaining a permit were a lack of prior felony conviction (and minimum age). The same conclusion holds for those who are arrested for other felonies.
33. In other words, if the goal is to protect the public against dangerous criminals, then it is not enough to just screen out those with felony convictions. That group constitutes only a minority of future arrestees for serious crimes, including felony homicide.
34. Concealed-carry permit systems in shall-issue states are intended to screen out some other groups besides those with a felony conviction record. Following the federal Gun Control Act requirements for legal gun possession, they typically deny a permit to applicants who are known to have been convicted of misdemeanor domestic violence (or subject to a domestic restraining order), are under indictment for a felony or a fugitive, have been involuntarily committed to a mental institution, are an illegal alien, or are a user of illicit drugs. Unfortunately there are no systematic studies of the prevalence of these disqualifying characteristics among those arrested for serious crime. Furthermore, local officials have only limited access to public records that would identify which applicants have been convicted of domestic violence, or have been involuntarily committed to a private mental institution.
35. In any event, there is good reason to believe that of all the disqualifying conditions, felony conviction is the most common. Statistics from the US Bureau of Justice Statistics

indicate that a felony record is by far the most common characteristic that blocks firearms transfers by firearms dealers when they conduct background checks of buyers.<sup>27</sup>

**j. Conclusion**

36. I conclude that there is a legitimate public purpose in restricting the issuance of permits to carry concealed firearms, and providing local law enforcement officials with some discretion in this regard. This public purpose is to reduce the incidence of firearms use in violent crime, and thereby reduce the rate of criminal homicide. A more lenient permit system that entitles all adults who lack a felony record to obtain a permit would qualify the majority of those who are later arrested for a felony. It is reasonable to conclude that future felons will have greater access to firearms in a shall-issue regime, than in a may-issue regime.

Pursuant to 28 U.S.C. §1746 I declare under penalty of perjury that the foregoing is true and correct. Executed on January 24<sup>th</sup>, 2011.

  
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PHILIP J. COOK

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<sup>27</sup> <http://bjs.ojp.usdoj.gov/content/pub/html/bcft/2009/bcft09st.pdf>, Table 4, accessed January 9, 2011.



## **Appendix A**

April 17, 2009

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Education:

B.A. (with high distinction) University of Michigan, 1968  
Ph.D. (Economics) University of California, Berkeley, 1973

Positions held:

2008-9	Schelling Visiting Professor of Public Policy, University of Maryland
2003	Residency, Bellagio Study and Conference Center (September-October)
2000	Visiting Scholar, Kennedy School of Government, Harvard University
1997-99	Director, Sanford Institute of Public Policy; Chair, Department of Public Policy Studies
1994-	ITT/Terry Sanford Professor of Public Policy Studies
1992-	Professor of Public Policy Studies, Economics, & Sociology, Duke University
1989-90	Visiting Professor, Fuqua School of Business, Duke University
1985-89	Director, Institute of Policy Sciences and Public Affairs, Duke University and Chairman, Department of Public Policy Studies
1984-	Professor of Public Policy and Economics, Duke University
1979-84	Associate Professor; 1973-79 Assistant Professor, Duke University
1982	Expert (part time) Office of Policy and Management Analysis, Criminal Division, U.S. Department of Justice

Fall 1980 Visiting Scholar, Institute for Research in Social Science, University of  
North Carolina, Chapel Hill

Fellowships and Academic Honors:

Raymond Vernon Memorial Prize for best paper in *JPAM*, 2008

Richard A. Stubbing Teacher Mentor Award, 2008

Member, Institute of Medicine, National Academy of Sciences, 2001-

*Who's Who in America 2001 and subsequent issues*

Fellow of the American Society of Criminology, 2000-

Vernon Prize for best paper in *Journal of Policy Analysis & Management* (v. 16), 1997

Research Associate, National Bureau of Economic Research 1996-

*Who's Who in Economics* 3rd edition (1996)

Kenneth J. Arrow Award (for best paper published in health economics), 1994

National Science Foundation Fellowship, 1968-1970

Special Career Fellowship (Ford Foundation), 1968-1972

National Merit Scholar, 1964-1968

Sims Award, Economics Department, University of Michigan, 1967

Phi Beta Kappa

## Publications

### A. Health and Safety Regulation

#### 1. Books and Edited Volumes

PJ Cook and JW Vaupel, eds. Law and Contemporary Problems, Autumn 1976. Issue entitled "Valuing Lives: When and How Should Society Spend its Scarce Resources to Decrease Mortality"

Law and Contemporary Problems, Winter 1988. Editor for issue entitled "Vice."

PJ Cook and A Scharff Recommendations Concerning Administration and Rate Structure for Excise Taxation in Romania Distributed by Tax Advisory Program, US Treasury Department, August 1994.

Paying the Tab: The Economics of Alcohol Policy Princeton, NJ: Princeton University Press, 2007.

Chapters 10 and 12 serialized in Milken Economic Review 10(1) First Quarter, 2008)

#### 2. Articles

PJ Cook and D Graham "The Demand for Insurance and Protection: The Case of Irreplaceable Commodities" Quarterly Journal of Economics, February 1977, 143-156. Reprinted in Georges Dionne and Scott Harrington (eds.) Foundations of Insurance Economics Kluwer Academic Press, 1991.

"The Value of Human Life in the Demand for Safety: Comment" The American Economic Review, September 1978, 710-711.

"Discussion" (on Martin Bailey's paper on Safety Decisions and Insurance) American Economics Association Papers and Proceedings, May 1978, 300.

"The Effect of Liquor Taxes on Drinking, Cirrhosis, and Auto Fatalities," in Mark Moore and Dean Gerstein, eds. Alcohol and Public Policy: Beyond the Shadow of Prohibition, National Academy of Sciences, 1981, 255-285; and in Richard Zeckhauser and Derek Leebeart, eds. What Role for Government? Duke University Press, 1983, 203-220.

PJ Cook and G Tauchen "The Effect of Liquor Taxes on Heavy Drinking" Bell Journal of Economics, Autumn 1982, 379-390.

"Alcohol Taxes as a Public Health Measure" British Journal of Addiction, September 1982, 245-250; and in Marcus Grant, Martin Plant, and Alan Williams, eds. Economics and Alcohol, Croom Helm Ltd., 1983.



PJ Cook and G Tauchen, "The Effect of Minimum Drinking Age Legislation on Youthful Auto Fatalities, 1970-77" Journal of Legal Studies 13, January 1984, 169-190. *reprinted in The Economics of Health Behaviours*, John H. Cawley and Donald S. Kenkel, eds., Cheltenham, UK: Edward Elgar Publishing Ltd., 2008.

"Increasing the Federal Alcohol Excise Tax" in Dean Gerstein, ed. Toward the Prevention of Alcohol Problems: Government, Business, and Community Action, National Academy Press, Washington, DC, 1984, 24-32.

"The Economics of Alcohol Consumption and Abuse" in Louis Jolyon West, ed. Alcoholism and Related Problems: Issues for the American Public, Prentice-Hall, 1984, 56-77.

"The Impact of Distilled Spirits Taxes on Consumption, Auto Fatalities and Cirrhosis Mortality" Control Issues in Alcohol Abuse Prevention: Strategies for States and Communities in Harold D. Holder, ed., Advances in Substance Abuse, Suppl: 1, Jai Press, Greenwich, CT, 1987, Pages 159-167.

"Comment" in John D. Graham (ed.) Preventing Automobile Injury: New Findings for Evaluation Research, Dover, MA: Auburn House Publishing Company, 1988, pp. 181-183.

DC Chapman, PJ Cook *et al.* "The Cultural Dimensions of Alcohol Policy Worldwide", Health Affairs, summer 1989, 48-62.

"The Social Costs of Drinking," in The Expert Meeting on the Negative Social Consequences of Alcohol Abuse Norewegian Ministry of Health and Social Affairs, Oslo, Norway, 1991.

PJ Cook and MJ Moore "Taxation of Alcoholic Beverages" in M. Hilton and G. Bloss, eds. Economic Research on the Prevention of Alcohol-Related Problems, NIAAA, NIH Publication No. 93-3513, 1993, 33-58.

PJ Cook and MJ Moore "Economic Perspectives on Reducing Alcohol-Related Violence" in Susan E. Martin, ed. Alcohol and Interpersonal Violence: Fostering Multidisciplinary Perspectives NIH Publication No. 93-3496, 1993, 193-212.

PJ Cook and MJ Moore "Violence Reduction through Restrictions on Alcohol Availability" Alcohol Health & Research World 17(2), 1993, 151-156.

PJ Cook and MJ Moore "Drinking and Schooling" Journal of Health Economics, 12, 1993, 411-429. *reprinted in The Economics of Health Behaviours*, John H. Cawley and Donald S. Kenkel, eds., Cheltenham, UK: Edward Elgar Publishing Ltd., 2008.

P.J. Cook and O-J Skog, "Alcool, alcoolisme, alcoolisation" by S. Ledermann" Alcohol Health & Research World 19(1), 1995, 30-32.

"Social Costs of Alcohol, Tobacco and Drug Abuse" and "Tax Laws, Alcohol" in J.H. Jaffe, ed. The Encyclopedia of Drugs and Alcohol, New York: Macmillan Publishing Co, 1996.

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D. Weapons and Violent Crime

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### E. Income Distribution

#### 1. Book

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3. OpEd and Magazine Articles (with Robert Frank)

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F. Other topics

"A 'One Line' Proof of the Slutsky Equation" The American Economic Review, March 1972, 139.

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PJ Cook and Jens Ludwig "The Burden of 'Acting White': Do Black Adolescents Disparage Academic Achievement?" in Christopher Jencks and Meredith Phillips (eds.) The Black-White Test Score Gap Brookings Institution Press, Washington DC, 1998: 375-400. Reprinted in Minority status, Oppositional Culture and Academic Engagement John U. Ogbu, Ed. New York: RoutledgeFarmer, forthcoming.

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Book reviews

Of Jack P. Gibbs, Crime, Punishment, and Deterrence in Contemporary Psychology 21:5, 1976.

Of Kenneth Dolbeare (ed.) Public Policy Evaluation in Policy Analysis, Fall 1977, 604-606.

Of David T. Stanley, Prisoners Among Us in Policy Analysis, Winter 1978, 139-141.

Of John Heineke, Economic Models of Criminal Behavior in Southern Economic Journal, April 1980, 1255-1257 (with Anne Witte).

Of Laurence Ross, Deterring the Drinking Driver in Journal of Health Politics, Policy, and Law, Winter 1983, 958-961; and in Popular Government, Winter 1983, 37-38.

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#### Unpublished monographs

"The Effect of Legitimate Opportunities on the Probability of Parolee Recidivism," Institute of Policy Sciences and Public Affairs, Duke University, 1973.

"Citizen Cooperation with the Criminal Justice System," Institute of Policy Sciences and Public Affairs, Duke University, 1976.

"A Summary of State Legal Codes Governing Juvenile Delinquency Proceedings" (with Joseph Austin and Richard Levi), Institute of Policy Sciences and Public Affairs, Duke University, 1977.

"Life, Liberty, and the Pursuit of Self Hazardous Behavior" (with James Vaupel), Institute of Policy Sciences and Public Affairs, Duke University, 1978.

"Regulating Handgun Transfers: Current State and Federal Procedures, and an Assessment of the Feasibility and Cost of the Proposed Procedures in the Handgun Crime Control Act of 1979" (with James Blose), Institute of Policy Sciences and Public Affairs, Duke University, 1980.

#### Selected Research grants

Principal investigator, "Evaluating Policy Options to Increase Citizen Cooperation in Urban Law Enforcement," A Durham Observatory Project, 1975.

Principal investigator, "The Processing of Gun Crimes in D.C. District Court," Institute of Law and Social Research, 1977.



Principal investigator, "Empirical Studies of Robbery and Handgun Control," U.S. Department of Justice.

Principal investigator, "Evaluating Alternative Policy Strategies for Controlling the Distribution of Handguns" (with Mark Moore), Ford Foundation, 1977-79.

Principal investigator, "A Review of the Major Gun Regulation Proposals," Center for the Study and Prevention of Handgun Violence, 1979-80.

Principal investigator, "A Review of Robbery Literature," National Institute of Justice, 1981.

Principal investigator, "Robbery Violence," National Institute of Justice, 1983-85.

Principal investigator, "Vice," The Chicago Resource Center, 1987

Principal investigator, "Costs of the Death Penalty in North Carolina," NC Administrative Office of the Courts, 1991-93.

Principal investigator, "Causes and Effects of Youthful Drinking," National Institute on Alcohol Abuse and Alcoholism, 1992-1994.

Principal investigator, "Markets for Stolen Guns," Harry Frank Guggenheim Foundation, 1993-4.

Principal investigator, "The Costs of Gunshot Wounds," The Joyce Foundation, 1997-99.

Principal investigator, "Community Gun Prevalence and Crime," The Joyce Foundation, 2000-2003.

Investigator Award In Health Policy Research, Robert Wood Johnson Foundation, 2003-4.

Principal Investigator, "evaluations of two programs in Milwaukee designed to reduce serious criminal violence" Joyce Foundation, 2007-2008.

Principal Investigator, "Fiscal Costs of Capital Punishment in NC" Z. Smith Reynolds Foundation, 2007-2008.

Principal Investigator, "An Experimental Evaluation of the Milwaukee Prisoner Re-entry Program" Smith Richardson Foundation, 2008-2011.



Service and Administrative Activities at Duke University

Director of Undergraduate Studies, Institute of Policy Sciences and Public Affairs, 1974-75, 1992.

Director of Graduate Studies, Institute of Policy Sciences and Public Affairs, 1977-79, 1984, and 1994-95.

Chairman, Graduate Curriculum Committee, Institute of Policy Sciences and Public Affairs, 1977-79.

Member, Undergraduate Faculty Council of Arts and Sciences, 1977-78, 1991-93.

Author of an evaluation of undergraduate admission policy, commissioned by the Undergraduate Faculty Council, 1978.

Member, Academic Council, Duke University, 1978-79, 1982-84, 1993-95, 1998-2000  
Elected to the Executive Committee of the Academic Council, 1982-83.

Associate Director, Institute of Policy Sciences and Public Affairs, 1979-1985, 2005-.

Pre-Major Advisor, 1981-85.

Member, UFCAS Committee on Admissions, 1984-86.

Member, University Committee on Undergraduate Admissions and Financial Aid, 1986 - 87.

Author of a special report on predicting yields from undergraduate admissions, 1987.

Member, Dean White's Ad Hoc Committee on Undergraduate Internships, 1987.

Member, President's Administrative Oversight Committee, 1987-90.

Chairman, Public Policy Studies Committee on Appointments and Promotion, 1990-93.

Chair, Provost's committee to review Dean Earl Dowell for reappointment, 1992.

Member, Arts and Sciences Committee on Planning and Priorities, 1993-95. Chair, 1994-95.

Member, Dean Search Committee, Fuqua School of Business, 1994.

Chair, PPS Diversity Committee, 1994-95.

Member, Executive Committee of the Graduate School, 1995-96

Member, steering committee, Child and Family Policy initiative, 1999

Member, Dean's Search Committee, Duke Law School, 1999

Member, Planning Committee, Institute for Genome Sciences and Policy, 1999

Chair, Arts & Sciences Council Task Force on the Budget, 2001-2

#### Public and Professional Service

Chairman, Weapons and Violent Crime Workshop, NILECJ, LEAA, U.S. Department of Justice, February 1978.

Presenter, N.C. Governor's Crime Commission, June and September, 1979.

Panel member, National Research Council Study of Alternative Policies Affecting the Prevention of Alcohol Abuse and Alcoholism, 1978-1981.

Member, N.C. Governor's Task Force on Drunken Driving, 1982.

Member, Ad Hoc Workshop on the Future of Criminal Justice Research, U.S. Department of Justice and National Research Council, March 1982.

Testified on alternative gun-control policies before the U.S. Senate Criminal Law Subcommittee, March 4, 1982.

Testified on alcohol tax policy before the Social Security Advisory Council, May 25, 1982.

Participant, Sixty-Sixth American Assembly (Public Policy on Alcohol Problems), Harriman, NY, April 26-29, 1984.

Member, Executive Session on the Juvenile Justice System, Harvard University, 1984-85.

Member, Policy Council of the American Society of Criminology, 1985-86, and 1990-91.

Invited participant, Conference on the Cigarette Excise Tax sponsored by the Harvard Institute for the Study of Smoking Behavior, Washington, DC, April 17, 1985.

Member, "Crime and Violence" working group of the NAS Committee on Basic Research, 1985.

Member, Research Advisory Committee of the U.S. Sentencing Commission, 1986-91 (Chair, 1986).

Associate, Canadian Institute of Advanced Research, 1986.

Member, Board of Advisors, Public Policy Program, College of William & Mary, 1987-1992.

Member, National Academy of Sciences Committee on Law and Justice, 1987-1993.

Treasurer, Association of Public Policy Analysis and Management, 1987-1994.

Testified on the use of alcohol taxation as a public-health measure before the U.S. Senate Committee on Governmental Affairs, September 27, 1988.

Member, Workshop on Health Economics, National Institute of Alcohol Abuse and Alcoholism, September 1988.

Member, National Research Council's Panel on the Understanding and Control of Violent Behavior, 1988-91.

Member, Advisory Board to the Injury Prevention Research Center, University of North Carolina, 1990-.

Witness, "Problems and Prospects for a N.C. Lottery" North Carolina Economic Future Commission, December 5, 1990.

Invited participant, CDC's Forum on Youth Violence in Minority Communities, Atlanta, December 10-12, 1990.

Member, President's Advisory Board of the H. John Heinz III School of Public Policy and Management, Carnegie Mellon University, 1992-96 and subsequently (including 2007).

Consultant, Tax Advisory Program, US Department of Treasury, 1994-95.

Steering Committee, National Consortium on Violence Research, 1995-1997.

Member, Center for Gun Policy Research, Johns Hopkins University, 1995-.

Invited participant, White House Leadership Conference on Youth, Drug Use, and Violence, March 7, 1996.

Invited speaker, U.S. Senate Democratic Policy Council, Wilmington, DE, April 26, 1996.

Member, National Academy of Sciences (IOM) Committee on Injury Prevention and Control, 1997-8.

Member, Advisory Committee to the Harvard Injury Control Research Center, 1998-.

Consultant, US Department of Treasury, Enforcement Division, 1999-2000.

Member, National Academy of Sciences (NRC) Case Studies of School Violence Committee, 2001-2002.

Member, Division Committee for the Behavioral and Social Sciences and Education, National Research Council, 2001-2004.

Member, "Committee to Develop a Strategy to Prevent and Reduce Underage Drinking", Institute of Medicine 2002-3.

Member, Panel on Assessing the Feasibility, Accuracy, and Technical Capability of a National Ballistics Database, The National Academies 2004-5.

Member, *Crime and Justice* editorial board, 2007-1010.

Member, National Research Council Workshop on Understanding Crime Trends, 2007-8

Vice Chair, National Academy of Sciences Committee on Law and Justice, 2006-2009.

Vice President, Association of Public Policy and Management, 2008-2009.

#### Refereeing

Associate editor, Law and Contemporary Problems, 1974-78.

Editorial consultant, Journal of Criminal Law and Criminology, 1982-.

Member, Editorial Board, Journal of Policy Analysis and Management, 1986- 2002.

Associate Editor, Criminology, 1987-91.

Occasional refereeing: American Economic Review, Journal of Political Economy, Journal of Public Economics, Economic Inquiry, Journal of Legal Studies, Journal of Law and Economics, New England Journal of Medicine, Journal of the American Medical Association, Criminology and other professional journals.



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
Alan Kachalsky, Christina Nikolov, and :  
Second Amendment Foundation, :  
 :  
Plaintiffs, : **Civil Action Number:**  
 : **10-cv-5413**  
-against- :  
 : **(Hon. Cathy Seibel)**  
Susan Cacace, Jeffrey A. Cohen, and :  
County of Westchester, : **DECLARATION OF**  
 : **FRANKLIN E. ZIMRING**  
Defendants. :  
-----X

Franklin E. Zimring, declares and states as follows, under penalties of perjury:

1. I am the William G. Simon Professor of Law, Wolfen Distinguished Scholar and Chair of the Criminal Justice Research Program at the University of California, Berkeley.

2. I have been studying the relationship between firearms and violence, strategies of firearms control, and patterns of gun commerce and civilian gun usage since 1967. I have served as director of research of the task force on firearms of the National Commission on the Causes and Prevention of Violence in 1968-1969 and as a firearms and federal criminal law expert for the National Commission on Reform of Federal Criminal Laws. I have published several empirical studies of firearms and violence and on gun control, and I have co-authored three books with firearms issues at their center, in 1969, 1986 and 1997. I was elected a Fellow of the American Academy of Criminology in 1993 and to the American Academy of Arts and Sciences in 1990. I have served as an expert on two topics: (1) the relationship between firearms and violence and (2) the

design and evaluation of firearms control. This declaration is on both topics. A full curriculum vitae is annexed hereto as Exhibit A.

3. I make this declaration in support of the State Defendants' cross-motion for summary judgment.

4. This declaration will summarize the empirical evidence and my expert opinions concerning the special risks of handguns and the external dangers of concealed weapons in public spaces.

**The Special Risks of Handguns.**

5. All forms of firearms are dangerous to life if they are used in assaults and robberies, but the handgun is the major hazard, particularly in big cities, because handguns are much more likely to be used in criminal violence than shotguns and rifles. Handguns are slightly more than one-third of all firearms owned by civilians in the United States, but they are used in more than 75% of all gun killings and in even larger portions of robberies. The handgun is small, easy to carry and conceal, and deadly at short range. Handguns are the priority concern of law enforcement everywhere.<sup>1</sup>

6. Most firearms assaults and almost all firearms robberies take place outside the offender's home, so that using a firearm in crime requires transporting it outside the home. But carrying a loaded shotgun to a commercial location for a robbery or to somebody else's home or on the street while looking for a target is a warning to potential

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<sup>1</sup> Zimring, Franklin E. and Gordon Hawkins, Crime Is Not the Problem: Lethal Violence in America, New York: Oxford University Press (1997), Chapters 1, 3 and 7. See also Zimring, Franklin E. and Gordon Hawkins, The Citizen's Guide to Gun Control, New York: McMillan (1986), at Chapter 5, p. 38.

victims and a red flag to passersby and to any law enforcement personnel that the armed pedestrian is not on an ordinary errand. Other pedestrians and motorists can avoid the visibly armed person and police can ask questions and subject the visibly armed person to identity checks and surveillance.

7. The person with a concealed handgun in his pocket generates no special notice until the weapon appears at his criminal destination. The robber or assaulter looks no different from any other user of common public spaces. And this ability to escape special scrutiny is the advantage that makes the concealed handgun into the dominant weapon of choice for gun criminals and a special danger to government efforts to keep public spaces safe and secure.

8. The necessity of carrying guns to crime sites without detection is one reason why the National Violence Commission research reported that 86% of all the firearms used in all assaults were handguns and an astonishing 96% of all firearms robberies were committed with handguns in the ten large cities the task force surveyed.<sup>2</sup> What that robbery percentage means is that the problem of gun robbery in American cities is almost exclusively a problem of concealable handguns.

9. The special dangers of handgun use in violence have produced a wide variety of different legal strategies to minimize the rate of handgun misuse. Many nations attempt to restrict both the number of such firearms owned by citizens and reasons why citizens might be permitted to own them. New York, outside New York City, allows most competent adults to own handguns if they have no major record of criminal conviction or mental health-related disqualification. Because New York does not restrict

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<sup>2</sup> Newton, George and Franklin E. Zimring (1969), *Firearms and Violence in American Life*, at Figure 8-1, p. 49.

eligibility of most citizens to own handguns or the volume of guns owned, the state's first line of defense against the use of such weapons in street crime is a series of restrictions on the time, place and manner of handgun use.

10. New York law prohibits the carrying of concealed handguns without a license. The state law delegates the authority to establish standards and make individual decisions to county licensing officials who, throughout most of the state are state court judges. The goal of this and other such provisions is to distinguish uses of handguns that do not pose a special threat to the public (such as storage and use in the owner's home) from uses that pose greater threats to public safety (such as the carrying of concealed weapons in streets and public places). The special danger of a hidden handgun is that it can be used against persons in public robbery and assault. The concealment of a handgun means that other citizens and police don't know it is in their shared space until it is brandished.

11. Not all of those carrying concealed handguns intend to use them as instruments of public harm. But the existence of a loaded handgun in public is a hidden danger which New York attempts to address by controlling the number of guns carried and screening those who are licensed to carry handguns in public. A critical dimension of the policy is restricting the population of hidden guns.

**The External Dangers of Concealed Weapons in Public Spaces.**

12. The right of home possession announced by the Supreme Court does not require citizens to purchase and own handguns in their houses but rather confers on individuals the right to decide for themselves if the benefits of gun possession in the home outweigh the risks. So the Second Amendment liberty announced in *Heller* puts the



homeowner in a position of power to determine what risks to take. As long as the guns owned in the home stay there, Mr. Smith's gun is no risk to his neighbors. But the presence of loaded and concealed guns in public spaces is an act where Mr. Smith's decision will generate risks to others who use the streets, and go to public accommodations. And if the guns are concealed, the people who are exposed to the public place risks won't have notice or any ability to avoid the armed persons they may confront.

13. This extension of hidden guns into shared public environments means that the implications of concealed carrying are spread over the community of users of public space, and the best method of deciding policy is a collective determination of whether concealed weapon carrying should be allowed and under what circumstances.

14. So government must be involved in public space regulation in a way that is not necessary in the privacy of individual homes. When armed citizens carry guns in public, they alter the public environment for all other users. This is why concealed weapons laws are the oldest form of legal regulation of gun use and the most common. There is a public choice that must be made about whether to reduce the number of persons carrying concealed weapons by limiting licenses. Without a definitive rule on the standards for licenses, there is no way that public preferences for or against high rates of hidden guns in public can be translated into a regulatory framework.

I declare under penalty of perjury that the forgoing is true and correct.

Executed at New York, N.Y., this 25<sup>th</sup> day of January, 2011.

  
FRANKLIN E. ZIMRING

**FRANKLIN E. ZIMRING**

13 October 2008

<b>PERSONAL</b>	Born 1942, Los Angeles, California; married; two adult children.
<b>EDUCATION</b>	Los Angeles Public Schools; B.A. with Distinction, Wayne State University (1963); J.D. <i>cum laude</i> , University of Chicago (1967).
<b>PRESENT POSITION</b>	<b>WILLIAM G. SIMON PROFESSOR OF LAW; WOLFEN DISTINGUISHED SCHOLAR</b> and <b>CHAIR</b> , Criminal Justice Research Program, Institute for Legal Research (formerly the Earl Warren Legal Institute), Boalt Hall School of Law, University of California, Berkeley.
<b>OTHER WORK</b>	<p><b>DIRECTOR</b>, Earl Warren Legal Institute (1983-2002).</p> <p><b>FACULTY OF LAW</b>, University of Chicago (1967-85): <b>KARL N. LLEWELLYN PROFESSOR OF JURISPRUDENCE</b> (1982-85) and <b>DIRECTOR</b>, Center for Studies in Criminal Justice (1975-85).</p> <p><b>MEMBER</b>, MacArthur Foundation Research Program on Adolescent Development and Juvenile Justice (1997-2007).</p> <p><b>FELLOW</b>, Center for Advanced Studies in the Behavioral Sciences, Stanford, California (1979-80).</p> <p><b>RAPPORTEUR</b>, Task Force on Sentencing Policy for Young Offenders, Twentieth Century Fund (1978).</p> <p><b>VISITING PROFESSOR OF LAW</b>, University of California, Irvine (2004), University of South Africa (1993), University of California, Berkeley (1983-85), Yale University (1973), and University of Pennsylvania (1972).</p> <p><b>DIRECTOR OF RESEARCH</b>, Task Force on Firearms, National Commission on the Causes and Prevention of Violence (1968-69).</p> <p><b>CONSULTANT</b>: American Bar Foundation, Police Foundation, National Commission on Reform of Federal Criminal Laws, Institute for Defense Analysis, Department of Justice, Rand Corporation, Abt Associates, Federal Parole Commission, Federal Bureau of Prisons, Federal Bureau of Investigation, General Accounting Office, Canadian Institute for Advanced Studies, States of Alaska, California, Nebraska, Illinois, Virginia, and Washington, Cities of Chicago, New York and San Francisco.</p>
<b>ADVISORY POSTS</b>	<p><b>CURRENT</b>: Campaign for Youth Justice (2007-); California Attorney General's Office (2001-); National Policy Committee, American Society of Criminology (1989-91 and 1993-); Board of Directors, Illinois Youth Services Association (Honorary) (1977-); Advisory Committee, National Pre-Trial Services Association (1975-).</p> <p><b>PAST</b>: Asian Pacific Violence Prevention Center, National Council on Crime and Delinquency (2001-2005); Advisory Committee, Sentencing Project, American Law Institute (2001-2003); Criminal Justice Policy Group, Advisory Board, National Campaign Against Youth Violence (2000-2002); Expert Panel Member, U.S. Department of Transportation, National Highway Traffic Safety Administration Panel on Crash Risk of Alcohol-Involved Driving (1994-2002); Expert Panel Member, U.S. Department of Education Panel on Safe, Disciplined, and Drug-Free Schools (1998-2001); National Research Council Panel on Juvenile Crime: Prevention, Intervention, and Control (1998-2001); Advisory Board, Center on Crime, Communities, and Culture, Open Society Institute (1998-2000); Affiliated Expert, Center for Gun Policy and Research, Johns Hopkins University (1995-98); Gun Violence Advisory Group, American College of Physicians (1995-98); Advisory Committee, Violent and Serious Juvenile Offender Project, National Council on Crime and Delinquency (1994-1997); Panel on NIH Research on Anti-Social, Aggressive, and Violence-Related Behaviors and their Consequences (1997-); Task Force on Future Directions for the National</p>



Archive of Criminal Justice Data, Bureau of Justice Statistics, Department of Justice (1995); Panel on Antisocial, Aggressive, and Violence-Related Behaviors and Their Consequences, National Institute of Health (1993-94); Panel on Understanding and Control of Violent Behavior, National Research Council, National Academy of Sciences (1989-91); Research Advisory Committee, California Attorney General (1983-1990); Law Enforcement Committee, California Governor's Policy Council on Drug and Alcohol Abuse (1989-91); National Research Council, Working Group Crime and Violence (1985-88); Internal Revenue Service, Advisory Group Taxpayer Compliance Research (1983-87); Board of Directors, Eisenhower Foundation for the Prevention of Violence (1981-84); U.S. Secret Service Advisory Committee on Protection of the President (1981-82); Assembly of Behavioral and Social Sciences, National Academy of Sciences (1977-80); Executive Committee, Illinois Academy of Criminology (1968-71, 1977-78); Advisory Committee, Assessment Center for Alternatives to Juvenile Courts (1977-78) (chairman); Advisory Committee, Law and Social Science Program, National Science Foundation (1976-77); Advisory Committee, Vera Institute of Justice, Court Employment Project Evaluation (1976-77) (chairman); Panel on Deterrence and Incapacitation, National Academy of Sciences (1975-77); Legal Committee, American Civil Liberties Union, Illinois Branch (1967-70).

#### EDITORIAL BOARDS

CURRENT: Punishment and Society (1998-); Crime and Justice: An Annual Review of Research (1979-90, 1998-); Western Criminology Review (1997-); Buffalo Criminal Law Review (1996-); Homicide Studies (1996-); The Prison Journal (1992-); Journal of Research in Crime and Delinquency (1976-84, 1990-); Federal Sentencing Reporter (1988-); Studies in Crime and Justice (1980-); Journal of Criminal Justice (1978-).

PAST: Law and Society Review (1988-1998); British Journal of Criminology (1988-1996); Journal of Quantitative Criminology (1984-1989); Ethics, (1985-87); Encyclopedia of Crime and Justice (1979-83); Evaluation Quarterly (1976-84); Law and Behavior (1976-85).

#### HONORS

Edwin H. Sutherland Award, American Society of Criminology (2007); August Vollmer Award, American Society of Criminology (2006); Notable Book of the Year, *The Economist* (2003); Society of Research on Adolescence, Biannual Book Award (2002); Pass Award, National Council on Crime and Delinquency (1999); Donald Cressey Award, National Council on Crime and Delinquency (1995); Choice, Outstanding Academic Book Citation (1995 and 1982); Paul Tappan Award, Western Society of Criminology (1994); Fellow, American Society of Criminology (1993); Distinguished Alumni Award, Wayne State University (1989); Bustin Prize for Legal Research, University of Chicago (1981); Cooley Lecturer, University of Michigan Law School (1980); National Distinguished Alumnus Award, Delta-Sigma-Rho (1977); Ten Law Professors Who Shape the Future, *Time Magazine* (1977); Civilian Award of Merit for 1975, Chicago Crime Commission; Gavel Award Certificate of Merit, American Bar Association (1973).

#### MEMBER

American Academy of Arts and Sciences (1990-); California Bar Association (1968-); Order of the Coif (1967-); Phi Beta Kappa (1964-).

**BOOKS AND MONOGRAPHS**

(Chinese translation) *The Contradictions of American Capital Punishment*, Shanghai Joint Publishing (2008; English version 2003)).

(Chinese translation) *A Century of Juvenile Justice*, Beijing: The Commercial Press (2008; English version 2002).

(with Bernard E. Harcourt) *Criminal Law and the Regulation of Vice*, American Casebook Series, St. Paul: Thompson/West Publishers (2007).

*The Great American Crime Decline*, New York: Oxford University Press (2006).

*American Juvenile Justice*, New York: Oxford University Press (2005).

*An American Tragedy: Legal Responses to Adolescent Sexual Offending*, Chicago: University of Chicago Press (2004).

*The Contradictions of American Capital Punishment*, New York: Oxford University Press (2003); paperback edition (2004)..

(with Margaret Rosenheim, David Tanenhaus, and Bernardine Dohrn, eds.) *A Century of Juvenile Justice*, Chicago: University of Chicago Press (2002).

(with Gordon Hawkins and Sam Kamin) *Punishment and Democracy: Three Strikes and You're Out in California*, New York: Oxford University Press (2001).

(with Jeffrey Fagan, ed.) *The Changing Borders of Juvenile Justice: Transfer from Juvenile to Criminal Court*, Chicago: University of Chicago Press (2000).

(with Sam Kamin and Gordon Hawkins) *Crime and Punishment in California: The Impact of Three Strikes and You're Out*, Berkeley: Institute of Governmental Studies (1999).

*American Youth Violence*, New York: Oxford University Press (1998); paperback edition (2000).

(with Gordon Hawkins) *Crime Is Not the Problem: Lethal Violence in America*, New York: Oxford University Press (1997); paperback edition (1999).

(with Gordon Hawkins) *Incapacitation: Penal Confinement and the Restraint of Crime*, New York: Oxford University Press (1995); paperback edition (1997).

(with Gordon Hawkins) *Prison Population and Criminal Justice Policy in California*, Berkeley: Institute of Governmental Studies (1992).

(with Gordon Hawkins) *The Search for Rational Drug Control*, New York: Cambridge University Press (1992); paperback edition (1995).

(with Gordon Hawkins) *The Scale of Imprisonment*, Chicago: University of Chicago Press (1991); paperback edition (1993).

(with Gordon Hawkins) *Pornography in a Free Society*, New York: Cambridge University Press (1988); paperback edition (1991).

(with Michael Laurence and John Snortum, eds.) *Social Control of the Drinking Driver*, Chicago: University of Chicago Press (1988).

(with Gordon Hawkins) *The Citizen's Guide to Gun Control*, New York: Macmillan Publishing Company (1987); paperback edition (1992).



(with Gordon Hawkins) *Capital Punishment and the American Agenda*, New York: Cambridge University Press (1987); paperback edition (1989).

(with Mark Siegler, Steven Toulman, Kenneth Schaffner, eds.) *Medical Innovation and Bad Outcomes: Legal, Social, and Ethical Responses*, Ann Arbor, MI: Health Administration Press (1987).

(with Gordon Hawkins, ed.) *The Pursuit of Criminal Justice: Essays From the Chicago Center*, Chicago: University of Chicago Press (1984); Midway reprint edition (1986).

(with Michael Tonry, ed.) *Reform and Punishment: Essays on Criminal Sentencing*, Chicago: University of Chicago Press (1983).

*The Changing Legal World of Adolescence*, New York: The Free Press (1982); paperback edition (1985).

(with Richard Frase) *The Criminal Justice System: Materials on the Administration and Reform of the Criminal Law*, Boston: Little, Brown and Company (1980).

*Confronting Youth Crime: Report of the Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders*, New York: Holmes and Meier (1978).

(with Gordon Hawkins) *Deterrence: The Legal Threat in Crime Control*, Chicago: University of Chicago Press (1973); Phoenix edition (1976).

*Perspectives on Deterrence*, Washington, D.C.: National Institute of Mental Health (1971).

(with George P. Newton) *Firearms and Violence in American Life*, Task Force Report to the National Commission on the Causes and Prevention of Violence, Washington, D.C.: U.S. Government Printing Office (1969).

## SCHOLARLY ARTICLES

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Preface to the Chinese edition, *A Century of Juvenile Justice*, Beijing: The Commercial Press (2008).

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(with David Johnson) Law, Society and Capital Punishment in Asia, *Punishment & Society* 10:103 (2008); also published in *Criminal Law Review* 19:109, (translated into Chinese by Richard Chiang for Peking University Press) (2006).

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(with David Johnson) On the Comparative Study of Corruption, *British Journal of Criminology* 45:793 (2005); also in the *Pacific McGeorge Global Business and Development Law Journal* 20:243 (2007) and in K. Padmaja, ed., *Corruption: Socio Legal Dimensions*, The ICFAI University Press (2008).

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The Punitive Necessity of Waiver, Chapter 6 in Fagan and Zimring, eds., *The Changing Borders of Juvenile Justice*, Chicago: University of Chicago Press (2000).

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(with Peter W. Greenwood, Albert J. Lipson, and Allan Abrahamse) *Youth Crime and Juvenile Justice: A Report to the California Legislature*, Rand Corporation (1983).

(with Peter W. Greenwood and Joan Petersilia) *Age, Crime, and Sanctions: The Transition From Juvenile To Criminal Court*, Rand Corporation (1980).

*Dealing with Youth Crime: National Needs and Federal Priorities*, a policy paper prepared for the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention (1975) (mimeo).

*The Court Employment Project: A Report to the City of New York* (1974) (mimeo).

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
Alan Kachalsky, Christina Nikolov, Eric Detmer, :  
Johnnie Nance, Anna Marcucci-Nance, :  
and Second Amendment Foundation, Inc., :

Plaintiffs, :

-against- :

Susan Cacace, Jeffrey A. Cohen, :  
Albert Lorenzo, Robert K. Holdman :  
and County of Westchester, :

Defendants. :

**Civil Action Number:**  
**10-cv-5413**

**(Hon. Cathy Seibel)**

-----X  
**DECLARATION OF THE HONORABLE SUSAN CACACE**

The undersigned declares under penalty of perjury and in accordance with 28  
U.S.C. §1746 as follows:

1. I am a Defendant herein and submit this declaration in support of the State  
Defendants' Cross-Motion for Summary Judgment and in opposition to the Plaintiffs'  
Motion for Summary Judgment based on my personal knowledge.

2. I am a County Court judge for Westchester. I have been on the bench for  
5 years. Pursuant to New York State Penal Law § 265.00 (10) one of my duties as a  
county judge is to act as a Westchester County handgun licensing officer. As such, I am  
familiar with the practices and procedures regarding the application for, and issuance of,  
pistol, or handgun, permits in Westchester. I rendered a Decision and Order dated  
October 8, 2008 denying the application of plaintiff, Alan Kachalsky for a "full carry"  
pistol license.



3. In my role as a handgun licensing officer, I am presented with a packet of materials, including the application and the applicant's supporting documents; the results of any and all criminal and mental health background checks performed by the Department of Public Safety for Westchester, who, pursuant to Penal Law § 400.00 (4) is charged with investigating an applicant's background and application statements; and the recommendations of the various levels of the Department of Public Safety. The materials I reviewed in connection with Kachalsky's application are annexed to the Affirmation of Anthony J. Tomari, sworn to January 26, 2011, submitted in support of the State Defendants' Cross-Motion for Summary Judgment ("Tomari Aff.") as Exhibit F.

4. After reviewing the materials related to Mr. Kachalsky's application, I issued a decision and order denying Mr. Kachalsky's application, dated October 8, 2008, noting "the State has a substantial and legitimate interest and grave responsibility for ensuring the safety of the general public" and that licensing officers, such as myself, "are vested with broad discretion in determining applications for an unrestricted pistol license and are required to exercise their judgment on the basis of a total evaluation of relevant factors". A copy of my October 8, 2008 Order and Decision is annexed to the Tomari Aff. as Exhibit K.

5. I denied Mr. Kachalsky's application for an unrestricted, full carry pistol permit, as he failed to state "any facts which would demonstrate a need for self protection distinguishable from that of the general public", and because "based upon all the facts and circumstances of this application, it is my opinion that proper cause does not exist for the issuance of an unrestricted 'full carry' pistol license" to Mr. Kachalsky.

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P.04

7. Rendering the October 8, 2008 Decision and Order was my only involvement in this controversy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 18, 2011  
White Plains, New York

  
Susan Cacace

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____	<b>X</b>	
Alan Kachalsky, Christina Nikolov, Eric Detmer,	:	
Johnnie Nance, Anna Marcucci-Nance,	:	
and Second Amendment Foundation, Inc.,	:	
Plaintiffs,	:	<b>Civil Action Number:</b>
	:	<b>10-cv-5413</b>
-against-	:	
	:	<b>(Hon. Cathy Seibel)</b>
Susan Cacace, Jeffrey A. Cohen,	:	
Albert Lorenzo, Robert K. Holdman	:	
and County of Westchester,	:	
Defendants	<b>X</b>	

**DECLARATION OF THE HONORABLE JEFFREY A. COHEN**

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am a Defendant herein and submit this declaration in support of the State Defendants' Cross-Motion for Summary Judgment and in opposition to the Plaintiffs' Motion for Summary Judgment based on my personal knowledge.

2. I currently serve as a Justice on the bench of the Appellate Division, Second Department. Prior to my appointment to the Appellate Division on December 9, 2010, I served as a County Court judge for Westchester County ("Westchester"), for three (3) years, and a New York State Supreme Court Justice for approximately one (1) year. Pursuant to New York State Penal Law § 265.00 (10) one of my duties as a Westchester county court judge is to act as a Westchester County handgun licensing officer. As such, I am familiar with the practices and procedures regarding the application for, and issuance of, pistol, or handgun, permits in Westchester. As it pertains to this controversy, I rendered a Decision and Order dated October 2, 2008 denying the application of plaintiff, Christina M. Nikolov for a "full carry" pistol license.

3. In my role as a handgun licensing officer, I am presented with a packet of materials, including the application and the applicant's supporting documents; the results of any and all criminal and mental health background checks performed by the Department of Public Safety for Westchester, who, pursuant to Penal Law § 400.00 (4) is charged with investigating an applicant's background and application statements; and the recommendations of the various levels of the Department of Public Safety. The materials I reviewed in connection with Nikolov's application are annexed to the Affirmation of Anthony J. Tomari, sworn to January 25, 2011, submitted in support of the State Defendants' Cross-Motion for Summary Judgment ("Tomari Aff.") as Exhibit "G".

4. After reviewing the materials related to Ms. Nikolov's application, I issued a decision and order denying her application for a full carry pistol license, dated October 2, 2008. A copy of my October 2, 2008 Order and Decision is annexed to the Tomari Aff as Exhibit "O".

5. As my October 2, 2008 Order and Decision makes clear, I denied Ms. Nikolov's application for an unrestricted, full carry pistol permit, because she failed to demonstrate "that she has a special need for self-protection distinguishable from that of the general public".

6. Rendering the October 2, 2008 Decision and Order was my only involvement in this controversy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 18, 2011  
White Plains, New York

  
JEFFREY A. COHEN



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
Alan Kachalsky, Christina Nikolov, Eric Detmer,	:
Johnnie Nance, Anna Marcucci-Nance,	:
and Second Amendment Foundation, Inc.,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
Susan Cacace, Jeffrey A. Cohen,	:
Albert Lorenzo, Robert K. Holdman	:
and County of Westchester,	:
	:
Defendants.	:
-----X	

**Civil Action Number:  
10-cv-5413  
  
(Hon. Cathy Seibel)**

**DECLARATION OF THE HONORABLE ALBERT LORENZO**

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am a Defendant herein and submit this declaration in support of the State Defendants' Cross-Motion for Summary Judgment and in opposition to the Plaintiffs' Motion for Summary Judgment based on my personal knowledge.

2. I currently serve as an Acting Justice for the Supreme Court of the State of New York, Westchester County. I have served as a judge for 8 years. Pursuant to New York State Penal Law § 265.00 (10) one of my duties as an Acting Justice in Westchester, is to act as a Westchester County handgun licensing officer. As such, I am familiar with the practices and procedures regarding the application for, and issuance of, pistol, or handgun, permits in Westchester. As pertains to this controversy, I rendered a Decision denying the application of plaintiff, Eric R. Detmer, to amend, or change, his current pistol permit for target shooting, to a "full carry" license.

3. In my role as a handgun licensing officer, I am presented with a packet of materials, including the application and the applicant's supporting documents; the results of any and all criminal and mental health background checks performed by the Department of Public Safety for Westchester, who, pursuant to Penal Law § 400.00 (4) is charged with investigating an applicant's background and application statements; and the recommendations of the various levels of the Department of Public Safety. The materials I reviewed in connection with Detmer's amendment application are annexed to the Affirmation of Anthony J. Tomari, sworn to January 25, 2011, submitted in support of the State Defendants' Cross-Motion for Summary Judgment ("Tomari Aff.") as Exhibit H.

4. After reviewing the materials related to Mr. Detmer's application, I denied his application for a full carry pistol license, and informed him through correspondence dated September 27, 2010. A copy of my September 27, 2010 correspondence to Mr. Detmer is annexed to the Tomari Aff as Exhibit P.

5. As my September 27, 2010 correspondence stated, I denied Mr. Detmer's application to change his current license which permits target shooting, to an unrestricted, full carry pistol permit, because I saw no justification warranting a "full carry" permit for Mr. Detmer.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 19, 2011  
White Plains, New York

  
ALBERT LORENZO

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
Alan Kachalsky, Christina Nikolov, Eric Detmer, :  
Johnnie Nance, Anna Marcucci-Nance, :  
and Second Amendment Foundation, Inc., :

Plaintiffs, :

-against- :

Susan Cacace, Jeffrey A. Cohen, :  
Albert Lorenzo, Robert K. Holdman :  
and County of Westchester, :

Defendants. :  
-----X

**Civil Action Number:  
10-cv-5413**

**(Hon. Cathy Seibel)**

**DECLARATION OF THE HONORABLE ROBERT K. HOLDMAN**

The undersigned declares under penalty of perjury and in accordance with 28  
U.S.C. §1746 as follows:

1. I am a Defendant herein and submit this declaration in support of the State  
Defendants' Cross-Motion for Summary Judgment and in opposition to the Plaintiffs'  
Motion for Summary Judgment based on my personal knowledge.

2. I currently serve as a Justice of the Supreme Court of the State of New  
York, Bronx County. Previously, I served as a Justice of the Supreme Court of the State  
of New York, Westchester County ("Westchester"). I served in this capacity since June,  
2005. Pursuant to New York State Penal Law § 265.00 (10) one of my duties as a  
Supreme Court Justice in Westchester, was to act as a Westchester County handgun  
licensing officer. As such, I am familiar with the practices and procedures regarding the  
application for, and issuance of, pistol, or handgun, permits in Westchester. As pertains  
to this controversy, I rendered two (2) decisions, both dated September 9, 2010 denying



the applications of plaintiffs Johnnie Nance ("Nance"), and Anna L. Marcucci-Nance ("Marcucci-Nance") to amend, or change, their current pistol licenses which permit target shooting to "full carry" permits. Each applicant also sought to amend their permits to add one firearm and delete one firearm from their licenses, each of which was granted.

3. In my role as a handgun licensing officer, I am presented with a packet of materials, including the application and the applicant's supporting documents; the results of any and all criminal and mental health background checks performed by the Department of Public Safety for Westchester, who, pursuant to Penal Law § 400.00 (4) is charged with investigating an applicant's background and application statements; and the recommendations of the various levels of the Department of Public Safety. The materials I reviewed in connection with Nance's application are annexed to the Declaration of Anthony J. Tomari, ("Tomari Decl.") as Exhibit I. The materials I reviewed in connection with Marcucci-Nance's application are annexed to the Tomari Decl. as Exhibit J.

4. After reviewing the materials related to Mr. Nance's application, I issued a decision dated September 9, 2010, denying his application to amend his license from target shooting to a full carry, but approving the application to add one firearm and delete one firearm. A copy of my September 9, 2010 Decision pertaining to Nance is annexed to the Tomari Aff as Exhibit Q.

5. As I noted in my September 9, 2010 Decision, "those charged with the duty to oversee handgun licensing . . . must . . . recognize and honor the right while at the same time recognizing the limits to the right to bear arms under the Second Amendment".

6. My September 9, 2010 Decision further finds that "[t]he burden of establishing 'proper cause' for the issuance of a full-carry permit is upon the applicant to establish a 'special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession' ".

7. Upon reviewing Mr. Nance's application materials, I found that he had "not provided the court with any information that he faces any danger of any kind that would necessitate the issuance of a full carry firearm license; or [had] demonstrated a need for self-protection distinguishable from that of the general public or of other persons similarly situated". I thus denied his application to amend his license from target shooting to "full carry".

8. The process and reasoning was exactly the same for Marcucci-Nance. As I noted in the September 9, 2010 Decision denying her application to amend her pistol permit from target shooting to "full carry", she, too, failed to provide "the court with any information that she faces any danger of any kind that would necessitate the issuance of a full carry firearm license; nor [had she] demonstrated a need for self-protection distinguishable from that of the general public or of other persons similarly situated". In fact, neither Mr. Nance nor Ms. Marcucci-Nance indicated that they wanted full-carry license for any self-defense purposes. Instead, the only reason either provided for a full-carry license was the need to carry handguns in connection with handgun training courses. A copy of my September 9, 2010 Decision pertaining to Marcucci-Nance is annexed to the Tomari Decl. as Exhibit R.

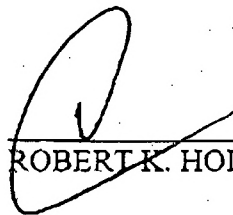
9. Therefore, as with Nance's application, and for all the same reasons, I denied Marcucci-Nance's application to amend her pistol permit from target shooting to a

"full carry" license. However, as with Nance, I did approve the amendment to the original license noting the deletion of one firearm and adding one firearm.

10. Rendering the two (2) decisions pertaining to plaintiff Nance and plaintiff Marcucci-Nance, both dated September 10, 2010, was my only involvement in this controversy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 20, 2011  
White Plains, New York

  
\_\_\_\_\_  
ROBERT K. HOLDMAN

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS DIVISION

---

ALAN KACHALSKY, CHRISTINA NIKOLOV,  
ERIC DETMER, JOHNNIE NANCE, ANNA  
MARCUCCI-NANCE, and SECOND AMENDMENT  
FOUNDATION, INC.,

Plaintiffs,

Case No. 10-CV-05413

v.

(Hon. Cathy Seibel)

SUSAN CACACE, JEFFERY A. COHEN, ALBERT  
LORENZO, ROBERT K. HOLDMAN, AND COUNTY  
OF WESTCHESTER,

Defendants.

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**DECLARATION OF THE HONORABLE DAVID R. ROEFARO**

The Honorable David R. Roefaro, declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am the Mayor of the City of Utica ("Utica"), having been sworn into office on January 1, 2008. I make this declaration in support of the motion for summary judgment of Susan Cacace, Jeffrey A. Cohen, Albert Lorenzo and Robert K. Holdman, ("State Defendants"), and in opposition to the Plaintiffs' motion for summary in the above captioned proceeding, and to outline Utica's interest in reducing handgun violence and seeing the "proper cause" requirement of New York's "full carry" licensing statute upheld.

2. It would be detrimental to Utica's interests, and the interests of cities like Utica, to remove the element of proper cause from consideration in issuing permits to carry concealed weapons. Mayors understand proper cause as a necessary public safety buffer that permits the reasonable regulation of the issuance of concealed carry licenses, in allowing persons who are able, to make an appropriate showing to obtain licenses.



3. Shortly before I took office in 2008, gun crimes were rising in my city. We had even lost an officer in a shooting involving a concealed handgun during a routine traffic stop that year. In my 2009 State of the City Address, I promised my citizens that I would do my best to eradicate gun violence from our city. I partnered with other mayors in this cause and successfully fought to lower the amount of gun crimes in Utica as well as in our sister cities.

4. I believe that the licensing laws in New York are fundamental to our efforts to keep Utica safe and to lowering the amount of violence. Other states without a discretionary element in their gun licensing schemes, like New York's proper cause provision, have experienced more guns on the streets and may even supply more guns to cities like mine. I can say with complete confidence that removing the "proper cause" requirement will hurt public safety. Any policy that allows an individual to carry a concealed weapon without substantial screening, beyond mere criminal and mental-health background checks, would increase the danger to both citizens and police officers alike, and propel the false idea that a greater proliferation of gun possession on the streets is somehow desirable and more important than allowing the city to properly use its police force to protect its citizenry.

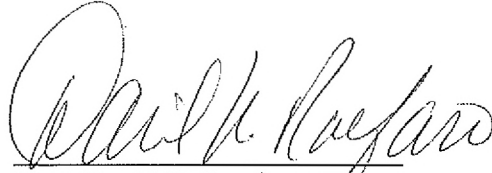
5. To understand the magnitude of the challenge we face, it is worth noting that in Utica, we take one illegal gun off the streets every week. Most, nearly 90%, come from other states. Encouraging more public possession of concealed handguns will only intensify our difficulties. In my experience as Mayor, more guns on our streets will increase violence and exacerbate a city culture where the populace would feel unsafe venturing out to our public areas. The growth of a fearful anxiety would undermine our efforts to attract businesses and families to our city to enable it to grow.

6. In sum, the proper cause requirement is a reasonable and necessary element of a thorough background check for anyone who wishes to carry a concealed weapon in public. It will limit carry concealed weapons to those individuals who have some greater reason than "just

because" and is essential in my office's efforts to make Utica a thriving and vibrant community.

It's just that simple.

7. Respectfully, I humbly request that the Court uphold judicial discretion in seeking proper cause for the issuance of a concealed carry license.

  
Hon. David R. Roefaro  
Mayor of the City of Utica

Sworn before me  
this 24<sup>th</sup> Day of  
January 2011

JOHN P. ORILIO  
Notary Public in the State of New York  
Reg. #01OR4647270  
Qualified in Oneida County  
My Commission Expires January 31, 2014

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS DIVISION

---

ALAN KACHALSKY, CHRISTINA NIKOLOV,  
ERIC DETMER, JOHNNIE NANCE, ANNA  
MARCUCCI-NANCE, and SECOND AMENDMENT  
FOUNDATION, INC.,

Plaintiffs,

Case No. 10-CV-05413

v.

(Hon. Cathy Seibel)

SUSAN CACACE, JEFFERY A. COHEN, ALBERT  
LORENZO, ROBERT K. HOLDMAN, AND COUNTY  
OF WESTCHESTER,

Defendants.

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**DECLARATION OF THE HONORABLE STEPHANIE A. MINER**

The Honorable Stephanie A. Miner declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am the Mayor of the City of Syracuse ("Syracuse"), having been sworn into office effective January 1, 2010. I make this declaration in support of the motion for summary judgment of Susan Cacace, Jeffrey A. Cohen, Albert Lorenzo and Robert K. Holdman, in opposition to the Plaintiffs' motion for summary and to outline Syracuse's interest in reducing handgun violence and seeing the "proper cause" requirement of New York's "full carry" permits upheld.

2. I believe the "proper cause" provision of the New York State handgun licensing statute is helpful in regulating the number of concealed, loaded and operable handguns on the streets of Syracuse, and that it would be adverse to the interests of Syracuse to remove the element of proper cause from consideration in issuing permits to carry concealed weapons. In my belief, the requirement of "proper cause" enhances public safety by allowing the reasonable regulation of the issuance of concealed carry licenses. It provides that such licenses will issue to



individuals who can show that they have a reasonable self-defense need to carry a concealed handgun in public, while denying licenses to those individuals who are unable to make that showing.

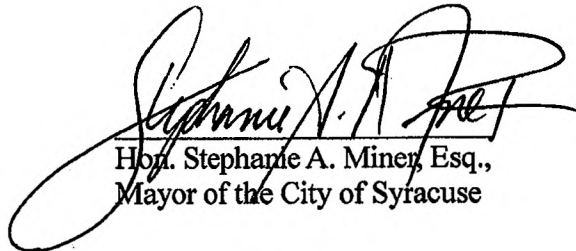
3. Thus, I believe that the current laws in New York strike an important balance between the right and the responsibility of carrying a concealed handgun on the streets of Syracuse. Eliminating the proper cause provision will inevitably increase the numbers of concealed and loaded handguns in public, placing the Syracuse Police force in greater danger. It may also create a perception that because people believe that there are increased numbers of persons carrying handguns in public, they themselves should also do so, which will over time make the streets of Syracuse more dangerous.

4. Unfortunately, the prevalence of public gun possession does more than just create a perception of violence. On October 31<sup>st</sup> of 2010, a twenty-month old toddler was murdered by a member of a criminal gang using a handgun. Gangs are a public health issue in Syracuse, and as Mayor I believe that limiting the number of guns carried in public is a valuable tool I have to control gang violence.

5. Reasonably regulating the public possession of concealed weapons is important in securing the safety of my city; this is a not unimportant component of our effort to encourage economic growth, and we cannot afford another drain on our ability to create jobs and grow as a city.

6. For these reasons I support the continued application of the "proper cause" requirement.

Sworn to before me this  
25<sup>th</sup> day of January, 2011  
Catherine E. Carnrike  
Notary Public

  
Hon. Stephanie A. Miner, Esq.,  
Mayor of the City of Syracuse

CATHERINE E. CARNRIKE  
Notary Public, State of New York  
No. 02CA6112791  
Qualified in Onondaga County  
Commission Expires July 12, 2012 APPX. 525



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

ALAN KACHALSKY, CHRISTINA NIKOLOV, ERIC  
DETMER, JOHNNIE NANCE, ANNA MARCUCCI-  
NANCE, and SECOND AMENDMENT FOUNDATION,  
INC.,

*Plaintiff:*

-against-

SUSAN CACACE, JEFFREY A. COHEN, ALBERT  
LORENZO, ROBERT K. HOLDMAN, and COUNTY  
OF WESTCHESTER,

*Defendants.*

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**DECLARATION**

10-CV-05413

Hon. Cathy Seibel

Thomas L. Fazio declares under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I have been a member of the New York State Police for over 30 years. During my tenure, I have served in the positions of Trooper, Investigator, Lieutenant, Captain, Major – Troop Commander, Staff Inspector, Assistant Deputy Superintendent – Bureau of Criminal Investigation (“BCI”) (which oversees operations for more than 1000 investigators assigned to the investigative branch of the State Police in stations and special details across the state), and now as Deputy Superintendent, with overall responsibility for field operations. While in the BCI, I was a hostage negotiator in Poughkeepsie. I hold the rank of Colonel.

2. Counsel informs me that plaintiffs in this action challenge the constitutionality of the portion of New York’s handgun law that prohibits the possession of concealed handguns on the street without a permit. I submit this declaration in support of

defendants' cross-motion for summary judgment on the grounds that New York's restriction on the right to carry a concealed handgun in public is consistent with the Second Amendment.

3. From a law enforcement perspective, strong reason exists for New York's more demanding regulatory control of pistols and revolvers carried in public than those maintained for self-defense in one's home.

4. The inherent danger of firearms is readily apparent. The easy accessibility of a gun in public can increase the danger associated with emotional confrontations, such as road rage incidents, disputes involving broken relationships, or suicide attempts. One who is depressed or cannot control anger or emotions may pose a greater danger in public if he or she can simply draw a gun from a waistband. Numerous unknown people may be present and the surroundings may be unfamiliar to the shooter. Uninvolved and innocent bystanders can be placed at great risk. Handguns are particularly dangerous. It takes little skill to operate today's semi-automatic pistols. With the flick of a thumb, a shooter can drop a depleted magazine from the pistol grip. In a couple of seconds, he or she can load another magazine and chamber a round. A person wearing clothes containing a few pockets can easily carry enough magazines to supply dozens of rounds of ammunition without detection.

5. The decision of whether to fire a gun in public must be made in only a moment, and yet is enormously complicated. The State Police, for example, imposes rigorous training and qualification standards on its members before they are allowed to carry a gun. During the 26-week academy training, each recruit is educated and tested on

the capabilities and use of firearms. They are subjected to extensive range training, and must pass difficult tests before graduation. Included in the training are sessions devoted to the split-second decision to shoot. Recruits are required to view films of possible perpetrators engaged in a variety of activities and to shoot at the image on the screen when they believe deadly force is necessary. Mistakes made in training are corrected, and innocent lives in public are thereby saved. Initial gun training alone is inadequate. In the absence of unusual circumstance, members of the State Police undergo qualification testing every six months. Life and death decisions in public cannot be made without extensive training and continued reevaluation.

6. Even highly trained police officers, however, can mistake law abiding and well intentioned citizens for armed criminals. From 1981 to 2009, for instance, 26 police officers around the country have been shot and killed by fellow officers who have mistaken them for dangerous criminals. The last two tragedies occurred in New York State. *See Reducing Inherent Danger: Report of the Task Force on Police-on-Police Shootings* (2010). A variety of factors can be responsible for mistaken shootings. Mistaking a non-threatening citizen for a killer is a far greater concern in street situations than those in a home.

7. Concealed gun possession on the street poses special dangers for police officers. About 73 percent (357 of 490) of firearms used in killings of police from 2000 to 2009 were handguns (typically not the officer's own weapon), even though the restrictions on the acquisition of long guns are much less demanding. U.S. Dept. of



Justice, FBI, Law Enforcement Officers Killed & Assaulted (LEOKA) 2009, table 27. ([fbi.gov/ucr/killed/2009/data/table\\_27.html](http://fbi.gov/ucr/killed/2009/data/table_27.html); visited Jan. 17, 2011).

8. Further, like some other states, New York imposes restrictions on police in citizen encounters that are not mandated by the United States Constitution. Therefore, police in New York must exercise great restraint in determining whether a person is armed, and a proliferation of handguns in public can complicate that task. New York police officers are instructed that under New York case law, police must have “founded suspicion of criminal activity” before asking questions that may lead a person to believe he or she is suspected of a crime. Accordingly an officer with a hunch that the person is armed, but with no reasonable suspicion, may not ask if the person is carrying any guns, and may not ask the person for consent to be frisked. I am informed by counsel that cases illustrating New York law in this area include *People v. DeBour*, 40 N.Y.2d 210 (1976) and *People v. Hollman*, 79 N.Y.2d 181 (1992).

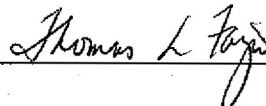
9. In light of the dangers accompanying handgun possession on the street, background investigations are appropriate before a permit is issued. This process may yield information suggesting that the applicant is a poor candidate for an unrestricted pistol permit, even if he or she has no criminal or mental health record. Obligating the state to issue permits for street gun possession to all but those with criminal or mental health records would eliminate the ability of the licensing officer to balance the information disclosed in the background investigation with the need for an unrestricted permit. Applying such a constitutional rule to the entire state would eliminate the ability to distinguish between the dissimilar concerns of a rural county such as Essex from an



urban county such as Brooklyn. It could lead to a proliferation of handguns in the public square, and thereby increase the danger to citizens and police officers alike.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2011, Albany, New York

A handwritten signature in cursive script, reading "Thomas L. Fazio", is written over a horizontal line.

Thomas L. Fazio

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

ALAN KACHALSKY, CHRISTINA NIKOLOV, ERIC  
DETMER, JOHNNIE NANCE, ANNA MARCUCCI-  
NANCE, and SECOND AMENDMENT FOUNDATION,  
INC.,

*Plaintiffs,*

-against-

SUSAN CACACE, JEFFREY A. COHEN, ALBERT  
LORENZO, ROBERT K. HOLDMAN, and COUNTY OF  
WESTCHESTER,

*Defendants.*

---

**DECLARATION**

10-CV-05413

Hon. Cathy Seibel

James Sherman declares under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am a member of the New York State Police, holding the rank of Technical Sergeant. I supervise the Pistol Permit Bureau in the agency's Office of Central Records.

2. The Pistol Permit Bureau is the repository for records concerning various classes of firearms and licenses in New York State. It provides assistance and guidance to persons charged with the responsibility of issuing firearms licenses, and to those seeking and holding pistol/revolver licenses.

3. My office gathers and maintains data regarding firearms licenses. Attached as Exhibit A is a summary of firearms license transactions received by the Pistol Permit Bureau from 1999 through 2009. The first substantive column represents the numbers of permit application that were approved at the county level and forwarded to the Bureau. The "Weapon Transaction" column lists the numbers of transactions, such as the purchase and

3. In my role as a handgun licensing officer, I am presented with a packet of materials, including the application and the applicant's supporting documents; the results of any and all criminal and mental health background checks performed by the Department of Public Safety for Westchester, who, pursuant to Penal Law § 400.00 (4) is charged with investigating an applicant's background and application statements; and the recommendations of the various levels of the Department of Public Safety. The materials I reviewed in connection with Nikolov's application are annexed to the Affirmation of Anthony J. Tomari, sworn to January 25, 2011, submitted in support of the State Defendants' Cross-Motion for Summary Judgment ("Tomari Aff.") as Exhibit "\_\_\_".

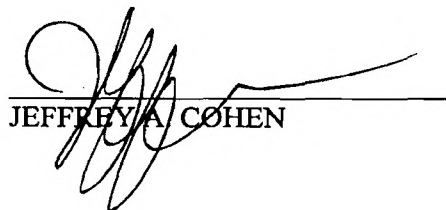
4. After reviewing the materials related to Ms. Nikolov's application, I issued a decision and order denying her application for a full carry pistol license, dated October 2, 2008. A copy of my October 2, 2008 Order and Decision is annexed to the Tomari Aff as Exhibit "\_\_\_".

5. As my October 2, 2008 Order and Decision makes clear, I denied Ms. Nikolov's application for an unrestricted, full carry pistol permit, because she failed to demonstrate "that she has a special need for self-protection distinguishable from that of the general public".

6. Rendering the October 2, 2008 Decision and Order was my only involvement in this controversy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 18, 2011  
White Plains, New York

  
JEFFREY A. COHEN

## **Exhibit A to Declaration of James Sherman**



**Ten Year Summary of Firearms License Transactions Received at the New York State Police Pistol Permit Bureau: 1999 – 2009**

<b>Year</b>	<b>Applications Received By PPB*</b>	<b>Weapon Transactions Received**</b>	<b>Amendments Received</b>	<b>Dealer Gunsmith Licenses Received</b>	<b>Dealer Gunsmith Transaction Reports</b>
<b>1999</b>	10,388	215,897	65,632	833	77,423
<b>2000</b>	11,297	158,036	70,473	827	83,303
<b>2001</b>	10,858	174,584	69,827	829	90,477
<b>2002</b>	13,416	202,831	69,606	818	91,283
<b>2003</b>	11,989	275,122	68,970	791	104,168
<b>2004</b>	12,097	156,409	64,765	805	108,630
<b>2005</b>	10,589	118,555	65,636	736	86,853
<b>2006</b>	11,344	241,347	67,117	733	93,168
<b>2007</b>	12,307	278,832	71,587	701	107,052
<b>2008</b>	13,325	364,458	73,130	701	110,787
<b>2009</b>	18,577	254,543	93,028	705	118,314

\*Only applications approved at the county level are forwarded to and received by the NYSP Pistol Permit Bureau

\*\*This number can be affected by backlogs existing during that specific calendar year

New York City currently has 36,017 pistol/revolver licenses on file

## **Exhibit B to Declaration of James Sherman**

APPLICATIONS RECEIVED BY COUNTY  
2007

COUNTY	APPLICATIONS
ALBANY	119
ALLEGANY	73
BROOME	204
CATTARAUGUS	198
CAYUGA	106
CHAUTAUQUA	265
CHEMUNG	106
CHENENGO	61
CLINTON	107
COLUMBIA	105
CORTLAND	70
DELAWARE	100
DUTCHESS	544
ERIE	961
ESSEX	91
FRANKLIN	60
FULTON	93
GENESEE	73
GREENE	54
HAMILTON	27
HERKIMER	100
JEFFERSON	98
LEWIS	46
LIVINGSTON	116
MADISON	77
MONROE	606
MONTGOMERY	68
NASSAU	849
NEW YORK CITY	2,609 (38,187 Active)
NYSP	75
NIAGARA	244
ONEIDA	297
ONONDAGA	382
ONTARIO	130
ORANGE	487
ORLEANS	48
OSWEGO	146
OTSEGO	101
PUTNAM	199
RENSSELAER	164
ROCKLAND	304

COUNTY	APPLICATIONS
ST. LAWRENCE	192
SARATOGA	257
SCHENECTADY	108
SCHOHARIE	71
SCHUYLER	64
SENECA	38
STEUBEN	139
SUFFOLK	1,709
SULLIVAN	222
TIOGA	92
TOMPKINS	67
ULSTER	321
WARREN	79
WASHINGTON	77
WAYNE	242
WESTCHESTER	545
WYOMING	90
YATES	40
TOTAL	14,916



APPLICATIONS RECEIVED BY COUNTY  
2008

COUNTY	APPLICATIONS
ALBANY	186
ALLEGANY	109
BROOME	219
CATTARAUGUS	277
CAYUGA	134
CHAUTAUQUA	271
CHEMUNG	112
CHENENGO	93
CLINTON	109
COLUMBIA	164
CORTLAND	83
DELAWARE	112
DUTCHESS	606
ERIE	811
ESSEX	64
FRANKLIN	59
FULTON	83
GENESEE	76
GREENE	108
HAMILTON	34
HERKIMER	93
JEFFERSON	195
LEWIS	85
LIVINGSTON	108
MADISON	83
MONROE	822
MONTGOMERY	81
NASSAU	896
NEW YORK CITY	2,276 (TOTAL ACTIVE – 36,937)
NYSP	78
NIAGARA	272
ONEIDA	289
ONONDAGA	356
ONTARIO	159
ORANGE	640
ORLEANS	76
OSWEGO	159
OTSEGO	136
PUTNAM	197
RENSSELAER	175
ROCKLAND	263

COUNTY	APPLICATIONS
ST. LAWRENCE	178
SARATOGA	282
SCHENECTADY	179
SCHOHARIE	54
SCHUYLER	48
SENECA	55
STEUBEN	140
SUFFOLK	1,518
SULLIVAN	298
TIOGA	70
TOMPKINS	47
ULSTER	319
WARREN	120
WASHINGTON	95
WAYNE	430
WESTCHESTER	447
WYOMING	127
YATES	45
TOTAL	13,325

APPLICATIONS RECEIVED BY COUNTY  
2009

COUNTY	APPLICATIONS
ALBANY	193
ALLEGANY	178
BROOME	421
CATTARAUGUS	336
CAYUGA	190
CHAUTAUQUA	681
CHEMUNG	202
CHENENGO	116
CLINTON	120
COLUMBIA	215
CORTLAND	118
DELAWARE	215
DUTCHESS	678
ERIE	713
ESSEX	64
FRANKLIN	56
FULTON	139
GENESEE	185
GREENE	189
HAMILTON	37
HERKIMER	103
JEFFERSON	117
LEWIS	94
LIVINGSTON	216
MADISON	115
MONROE	1,239
MONTGOMERY	78
NASSAU	1,093
NEW YORK CITY	2,071 (TOTAL ACTIVE – 36,017)
NYSP	64
NIAGARA	382
ONEIDA	372
ONONDAGA	643
ONTARIO	281
ORANGE	917
ORLEANS	132
OSWEGO	300
OTSEGO	226
PUTNAM	352
RENSSELAER	248
ROCKLAND	410

COUNTY	APPLICATIONS
ST. LAWRENCE	270
SARATOGA	393
SCHENECTADY	214
SCHOHARIE	98
SCHUYLER	102
SENECA	73
STEUBEN	205
SUFFOLK	1,956
SULLIVAN	285
TIOGA	149
TOMPKINS	115
ULSTER	374
WARREN	137
WASHINGTON	175
WAYNE	690
WESTCHESTER	643
WYOMING	202
YATES	68
TOTAL	18,577 (DOES NOT INCLUDE NYC)



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
Alan Kachalsky, Christina Nikolov, Eric Detmer,	:
Johnnie Nance, Anna Marcucci-Nance,	:
and Second Amendment Foundation, Inc.,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
Susan Cacace, Jeffrey A. Cohen,	:
Albert Lorenzo, Robert K. Holdman	:
and County of Westchester,	:
	:
Defendants.	:
-----X	

**Civil Action Number:  
10-cv-5413  
  
(Hon. Cathy Seibel)**

**DECLARATION OF ANDREW LUNETTA**

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

**EXPERIENCE**

1. I, Andrew Lunetta, am a Deputy Inspector in the New York City Police Department (NYPD), assigned as the Commanding Officer of the License Division.
2. I make this Declaration upon information and belief, based upon nearly 24 years in various assignments in the NYPD, near three years in my present assignment in the License Division, consultation with other members from various commands within the NYPD, and a review of NYPD records. My career has included a mix of assignments in which I performed legal work in my capacity as an attorney, and enforcement work, which has included patrol and supervision of investigations and patrol functions in my capacity as a sworn member of the NYPD. My years of experience involving police/citizen interaction in public settings (such as investigating disputes, accidents,

infractions, and crimes, as well as policing to balance rights and competing interests during the exercise of First Amendment rights at demonstrations) in New York City's busy and often stressed environment have led me to conclude that there is a need for reasonable restriction on the number of concealed handguns possessed on the street. This is best accomplished by the investigation of individual applications, subject to an administrative and legal process, in order to balance the rights of those who can demonstrate a need for self protection outside the home distinguishable from that of the general public (i.e. those who can demonstrate "proper cause") with the government interest in maintaining public safety by limiting the number of concealed handguns on the street.

#### **IMPORTANCE OF LAW ENFORCEMENT DISCRETION IN GUN LICENSING DETERMINATIONS**

3. New York State law gives the NYPD a central role in issuing licenses to carry handguns to persons with a residence or principal place of business within the City of New York. First, the NYPD, like the Westchester County Department of Public Safety, as a duly constituted police authority investigates applicants for handgun licenses as required by Penal Law § 400.00(4). Second, the NYPD Police Commissioner serves as a licensing officer and thus makes decisions to grant or deny licenses under §§ 265.00(10) and 400.00(1) – a role filled by judges with regard to applicants in Westchester County. Furthermore, § 400.00(6) requires a special permit from the commissioner (Special Carry – out-of-city validation – license) to carry a concealed handgun within the City, even if the bearer has a license issued in another county of the state, with certain narrow exceptions. Finally, § 400.00(11) empowers the commissioner to revoke a license at any time.

4. Those powers are exercised pursuant to relevant chapters within Title 38 of the Rules of the City of New York (38 RCNY), which, consistent with the Penal Law, clarify how those powers will be used. In particular, decisions on handgun licensing are made by NYPD's License Division. Application denials can be appealed in writing to the Director of the License Division, and revocation of active licenses can be appealed by a hearing before an administrative law judge with final review by the Director, in either case leading to final agency determination. These decisions are made consistent with both the Penal Law and NYPD's regulations.

5. Careful investigations, with an even application of standards, into both the applicant and their asserted basis for a showing of proper cause, which is designed to distinguish the applicant's need for self protection outside the home from that of the general public, ensure a precise fit between the "proper cause" requirement and the public safety interest in intelligently limiting full-carry handgun licenses. These careful investigations take place with each application for a carry license.

6. The NYPD's discretion over handgun licensing, while necessarily broad, is not absolute. Decisions to deny or revoke a license can be, and often are, challenged in state court under Article 78 of the Civil Practice Law and Rules. The NYPD's decision is upheld in the majority of such cases but is sometimes overturned.

7. Based on my and the NYPD's knowledge of handgun license applicants and of gun criminals, eliminating the "proper cause" requirement and thereby limiting the ability to deny a license to carry a handgun to only those circumstances where the applicant is prohibited from possessing a firearm by the specific provisions of federal law (18 U.S.C. § 922(g)) or state law (paragraphs (a), (c), and (e) of Penal Law § 400.00(1))



will be insufficient to prevent the granting of such licenses to potentially dangerous individuals who may commit crimes or endanger themselves. This is because only the review for "proper cause" allows the NYPD to investigate why a particular applicant wishes to carry a gun, how likely he or she is to need it for legitimate self-defense, and whether that need might be satisfied by a more limited class of license.

8. The Penal Law directs NYPD to issue a license to carry a handgun only (with the rare exceptions noted elsewhere in PL 400.00(2)) after investigating the applicant and finding that he or she has proper cause to carry a concealed firearm in public places outside his/her home or place of business. In order to better inform applicants, NYPD has published a regulation explaining two major forms of proper cause: applicants who have received threats and those who face exceptional personal danger due to their jobs. 38 RCNY 5-03. As the regulation stresses, however, those are not the only forms of proper cause, and "the License Division will consider any proof . . . which document[s] the need for a handgun license." In any case, as required by the Penal Law, NYPD investigates applicants to confirm that they have proper cause. For example, if an applicant claims to need to carry a handgun because s/he carries large quantities of cash for business, NYPD will request records to confirm the size and frequency of the business's cash deposits.

#### **PROBLEMS FROM PREVALENCE OF CARRIED HANDGUNS**

9. A change to New York's licensing system that would enlarge the number of handguns carried in public, such as removal of the "proper cause" requirement, would based upon my professional experience, increase the dangers to citizens and law enforcement officers and would make it more difficult for the NYPD to do its job of



protecting the public.

10. In particular, increases in the prevalence of carried handguns will, based upon my professional experience, add to the danger facing NYPD officers. Every NYPD officer murdered in the line of duty since at least 2005 has been killed with a handgun (excluding those who died, on September 11, 2001 or thereafter, from the attacks that day).

11. The prevalence of guns poses a similar threat to law enforcement officers across the country. According to the FBI's latest report, *Law Enforcement Officers Killed and Assaulted – 2009*, 48 law enforcement officers were feloniously killed in the line of duty nationwide in 2009. Of those 48, 45 (94%) were killed by a gun, including 28 (58%) who were killed by a handgun.

12. Handgun possession plays a significant role in the commission of many crimes, and the NYPD focuses its attention accordingly. For several years, New York City has been the safest big city in America, according to an analysis of crime data released by the FBI in its *Crime in the United States*, the Uniform Crime Reports. The NYPD has had great success in crime reduction, which has occurred while the reasonable restriction of requiring "proper cause" has been in place. Based upon my experience I find it reasonable to conclude that continued success at crime reduction would be made more difficult if the restriction were removed and more firearms were carried on the street.

13. An increasing prevalence of handgun carrying will pose particular problems for officers in already dangerous situations. It will endanger officers who stop people on the street or who stop motorists during a car stop by making it more likely that

such people are armed with handguns.

14. Police encounters with plain clothes police officers and off-duty police officers have always been an area wrought with difficult tactics and great potential for danger. The tactics and split-second decisions required during these encounters could become more complicated, and therefore more dangerous, if a greater number of individuals were possessing handguns on the street.

15. A key part of the NYPD's strategy for reducing crime has been targeting areas of high crime, especially gun crime, across the City. For example, based upon my review of NYPD records and policies, Operation Impact send large numbers of officers to the precincts with the greatest crime problems. Within each precinct, commanders use data to concentrate patrol and other resources on the areas with the most crime. Not only homicide, but also shootings and other gun crimes are key factors in this targeting.

16. Especially in those targeted areas, but throughout the City, NYPD officers concentrate their efforts against illegal firearms possession. A change in New York's licensing laws that would remove the "proper cause" requirement would have the effect of making the public possession of concealed handguns more common, and would make it more difficult for police officers to distinguish between lawful and unlawful possession and take appropriate action pursuant to law. Likewise, it would make it more dangerous for law enforcement officers to deal with situations where they have reason to believe that concealed handguns are present, or when persons encountered by officers exhibit signs indicating to officers that they may be carrying a concealed handgun. The existing New York State "proper cause" provision for handgun licensing is an important tool in enabling law enforcement to enhance public safety and to provide protection to law

enforcement officers and the public in general in instances involving the potential for violence.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 26, 2011

A handwritten signature in dark ink, appearing to read "Andrew Lunetta", written over a horizontal line.

Andrew Lunetta  
1 Police Plaza  
New York, NY 10038

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
Alan Kachalsky, Christina Nikolov, Eric Detmer,	:
Johnnie Nance, Anna Marcucci-Nance,	:
and Second Amendment Foundation, Inc.,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
Susan Cacace, Jeffrey A. Cohen,	:
Albert Lorenzo, Robert K. Holdman	:
and County of Westchester,	:
	:
Defendants.	:
-----X	

**Civil Action Number:  
10-cv-5413  
  
(Hon. Cathy Seibel)**

**DECLARATION OF BRUCE BELLOM**

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am a Sergeant within the Westchester County ("County") Department of Public Safety, assigned to the Pistol Licensing Unit as the Commanding Officer. I make this declaration in support of the Defendants' Cross-Motion for Summary Judgment and in Opposition to the Plaintiffs' Motion for Summary Judgment.

2. I have been employed by the County of Westchester for 29 years, was promoted to Sergeant in 1991, and have been the Commanding Officer of the Pistol License Unit of the Westchester County Department of Public Safety since May 2007. As such, I am familiar with the practices and procedures of the County regarding the application for pistol permit licenses within the County, and thus make this declaration based upon personal knowledge of those practices and procedures as well as upon my review of records kept in the normal course of business by the County.



3. The Pistol Licensing Unit conducts the investigations directed by the statutory mandate of Penal Law §400.00(4) for applications made within the geographical location of Westchester County. In connection with this mandate, the Pistol Licensing Unit investigates each application, compiles an investigative file for each such application, and summarizes the investigation for the New York State Judge acting as licensing officer pursuant to Penal Law §265.00(10). The Pistol License Unit maintains a copy of the applications submitted within the geographical area of Westchester County.

4. An individual may obtain an application from the County Clerk's Office, which maintains the blank application packets as well as the original completed application files. An application packet includes the New York State application form (Exhibit B<sup>1</sup>), and the New York State Police approved Pistol License Safety Information Handbook for Westchester County and investigation information forms, including Character Reference Letter forms (Exhibit C).

5. As Exhibit A indicates, after requiring basic identifying information the applicant must state for which type of pistol/revolver license he/she is applying. The application form provides three (3) boxes, one of which must be checked, to indicate whether the applicant seeks: a) a "carry concealed" license; b) a "possess on premises" license; or c) "possess/carry during employment" license. The application form also requires the applicant to set forth the "reason" why he/she claims that "[a] license is required...".

6. The application form requires the applicant to provide four (4) character references "who by their signature attest to [the applicant's] good morale

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<sup>1</sup> All Exhibits referenced herein are attached to the Declaration of Anthony J. Tomari, Esq., sworn to on January 26, 2011.

character" and to disclose whether he/she has "ever been arrested, summoned, charged or indicted anywhere for any offense, including DWI, (except traffic infractions)" and if so, to disclose the date, police agency, charge and disposition, including the court and date of disposition. (Exhibit B).

7. In addition, the applicant must disclose whether he/she has ever: a) been discharged from any employment or the armed forces for cause; b) undergone treatment for alcoholism or drug use; c) suffered from any mental illness; d) had a pistol license; dealer's license; gunsmith license; or any application for such a license disapproved or had such a license revoked or cancelled; e) any physical condition which could interfere with the safe and proper use of a handgun; and f) been charged, petitioned against, a respondent, or otherwise been a subject of a proceeding in family court. If the "YES" box to any of these questions is checked, the applicant must provide a written explanation. (Exhibit B).

8. One set of fingerprints is collected in a digital fingerprinting system by the police members Pistol Permit Unit.

9. The applicant must also complete the investigation information attachment applicable to the type of pistol license requested. A copy of the investigation information attachment for a full carry pistol permit license entitled "Attachment: Full Carry", Exhibit D.

10. A separate form is used for individuals seeking to amend a current pistol permit license, entitled "Application for Amended or Duplicate Pistol License" (hereinafter "Amendment Form", Exhibit E). The Amendment Form requests the same identifying information as the initial application form, but requests the original pistol

license number and asks the applicant to circle the reason why an amendment to the license is being sought. The Amendment Form lists as reasons: a) residence change; b) disposal of the gun; c) acquired a new gun; d) name change; e) restriction change; f) transfer; g) a duplicate license; h) surrendering the license; i) requesting a license be suspended; j) or revoked; k) the holder of the license is deceased; and l) some "other" reason.

11. Depending upon the reason selected, the applicant is directed to provide certain pertinent information. Where the applicant is requesting a current license be changed to a "full" or concealed carry permit, the applicant must complete the same "full carry" attachment as required by an original application. *See Exhibit C.*

12. Upon receipt of a completed initial application, a police member of the Pistol Permit Unit conducts the investigation as required under Penal Law §400.00(4). For an initial application, this investigation includes a fingerprint based criminal background check with the New York State Department of Criminal Justice Services, the Federal Bureau of Investigation and the National Instant Criminal Background system. When the applicant is filing for a restriction change, the criminal background check is updated by a search of the National Instant Criminal Background system.

13. As part of the investigation, the applicant's identifying information is forwarded to the New York State Department of Mental Hygiene to determine if the applicant had any hospitalizations for mental illness.

14. In addition to the background and mental health check, the investigation includes, but is not limited to, a review of the application form, Character Reference Letters submitted with the application form, and the application attachment



completed by the applicant. I review these materials and, once the investigation is deemed complete, I compile an investigation summary for the Judge. I submit this investigation and summary to my superiors. A lieutenant, the Chief Inspector of Administrative Services, and the Commissioner or a Deputy Commissioner also review the materials and return an investigation summary to me for submission to the Judge.

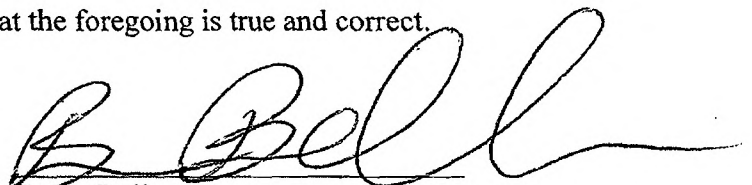
15. The entire investigation file is submitted to the Judge for review and decision on the application. The role of the Pistol Permit Unit is limited to the investigation described herein. The County has no ability to grant or deny license applications or amendments.

16. The process described above was used to compile the investigative files for Plaintiffs Alan Kachalsky (Exhibit F), Christina Nikolov (Exhibit G), Eric Detmer (Exhibit H), Johnnie Nance (Exhibit I) and Anna Marcucci-Nance (Exhibit J), and these are true and accurate copies of the files maintained by the Pistol Permit Unit.

17. Based upon my review of the unofficial file management system of the Pistol Permit Unit, the Judges granted approximately 130 full carry pistol permit licenses, approximately 471 pistol permit licenses restricted to target shooting, and approximately 41 pistol permit licenses restricted to carrying during the course of employment out of the applications submitted in 2010. Approximately 76 applications from 2010 remain pending.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: White Plains, NY  
January 24, 2011



Bruce Bellom



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X		
Alan Kachalsky, Christina Nikolov, and	:	
Second Amendment Foundation,	:	
	:	
Plaintiffs,	:	<b>Civil Action Number:</b>
	:	<b>10-cv-5413</b>
-against-	:	
	:	<b>(Hon. Cathy Seibel)</b>
Susan Cacace, Jeffrey A. Cohen, and	:	
County of Westchester,	:	
	:	
Defendants.	:	
-----X		

**DECLARATION OF MARGE COHEN**

Marge Cohen, declares and states, under penalties of perjury, as follows:

1. I am a Program Research Specialist in the Office of Justice Research & Performance of the New York State Division of Criminal Justice Services ("DCJS"). In that capacity I am a duly authorized custodian of, and a person authorized by DCJS to certify the authenticity of memoranda, reports, records and data compilations kept by DCJS in the course of its regularly conducted business activities.
2. DCJS electronically maintains records regarding criminal arrests and convictions within New York as well as criminal history, and the records and data regarding criminal arrests, convictions and criminal history data attached hereto are kept by DCJS in the ordinary course of its business. This information is received at the time of the act, transaction, occurrence or event recorded therein or within a reasonable time thereafter, is recorded as a regular practice of DCJS and the state court system, it is a regular practice of DCJS to make and keep such data, and the data is maintained by DCJS in the regular course of the agency's business.

Pursuant to 28 U.S.C. §1746 I declare under penalty of perjury that the foregoing is true and correct. Executed on January 19, 2011.

Marge Ole

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*NYS DIVISION OF CRIMINAL JUSTICE SERVICES*

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**2009 FELONY ARRESTEES  
21 YEARS AND OLDER**

	Total Arrestees	# with Prior Fel Convs	%
Oneida	1,005	394	39.2%
Onondaga	2,396	910	38.0%
Westchester	3,644	1,084	29.7%
New York State	109,705	36,461	33.2%

Source: DCJS, Computerized Criminal History Oracle file as of 12/20/2010.

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NYS DIVISION OF CRIMINAL JUSTICE SERVICES

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**PRIOR FELONY CONVICTIONS AMONG PERSONS  
ARRESTED FOR FELONY PL 125 HOMICIDE  
BY YEAR AND ARRESTING COUNTY  
21 YEARS AND OLDER**

Year		Oneida	Onondaga	Westchester
2000	Persons Arrested	6	24	47
	# with Prior Fel Conv	2	8	19
2001	Persons Arrested	7	13	40
	# with Prior Fel Conv	1	5	15
2002	Persons Arrested	10	22	34
	# with Prior Fel Conv	4	9	13
2003	Persons Arrested	11	13	32
	# with Prior Fel Conv	3	2	17
2004	Persons Arrested	9	22	20
	# with Prior Fel Conv	4	11	7
2005	Persons Arrested	10	19	30
	# with Prior Fel Conv	6	10	13
2006	Persons Arrested	12	21	17
	# with Prior Fel Conv	5	9	5
2007	Persons Arrested	13	17	28
	# with Prior Fel Conv	4	6	14
2008	Persons Arrested	11	14	9
	# with Prior Fel Conv	6	4	3
2009	Persons Arrested	5	12	16
	# with Prior Fel Conv	2	6	5

Note: Includes all completed and attempted PL 125 felony arrest charges

Source: DCJS, Computerized Criminal History Oracle file as of 12/20/2010.



JOINT APPENDIX CONTINUED  
IN FOLLOWING VOLUME